



## Appendix B: Statistical Data on Sexual Assault



# Table of Contents

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Background.....	4
Purpose.....	4
Scope.....	4
Data Included.....	5
Period Covered.....	6
Data Collection.....	7
Overview of Reports of Sexual Assault in FY18.....	7
Unrestricted Reports of Sexual Assault.....	11
Crimes Alleged in Unrestricted Reports.....	12
Investigations of Unrestricted Reports.....	13
Sexual Assault Case Dispositions.....	15
Military Subjects Considered for Disciplinary Action.....	17
Military Justice.....	21
Demographics of Victims and Subjects in Completed Investigations.....	30
Restricted Reports of Sexual Assault.....	31
Demographics of Victims in Restricted Reports.....	32
Service Referral Information.....	33
Expedited Transfers.....	35
Reports of Sexual Assault in Combat Areas of Interest.....	35
Demographics of Victims and Alleged Subjects in Unrestricted Reports in CAIs....	37
Demographics of Victims and Alleged Subjects in Restricted Reports in CAIs.....	37
FY18 Retaliation Allegations.....	38
CMG Retaliation Data.....	38
Data on Investigations of Perceived Retaliation.....	39
Longitudinal Data Analysis: Investigation and Adjudication Outcomes for Reports Made in Prior Fiscal Years.....	43

# List of Figures

---

Figure 1. Reports of Sexual Assault Made to DoD, FY07 – FY18 .....	8
Figure 2. DoD Sexual Assault Reports Made by Service Members for Incidents that Occurred During and Prior to Military Service, FY09 – FY18 .....	9
Figure 3. Estimated Number of Service Members who Indicated an Experience of Sexual Assault in the Past Year Compared to the Number of Service Members who Made Reports of Sexual Assault for Incidents that Occurred during Military Service, CY04 – FY18 .....	10
Figure 4. Unrestricted Reports of Sexual Assault by Service Member Involvement, FY07 – FY18 .....	11
Figure 5. Offenses Originally Alleged in Unrestricted Reports of Sexual Assault, FY18 .....	12
Figure 6. Reports of Sexual Assault, Completed Investigations, and Case Dispositions, FY18.....	14
Figure 7. Cases Outside DoD Legal Authority, FY18 .....	16
Figure 8. Cases Investigated for Sexual Assault by DoD with Subjects Who Were Outside Its Legal Authority or Service Members Prosecuted by a Civilian/Foreign Authority, FY09 – FY18 .....	17
Figure 9. Dispositions of Cases under DoD Legal Authority, FY18 .....	19
Figure 10. Percentage of Cases with Misconduct Substantiated, Command Action Precluded, and Command Action Declined, FY09 – FY18.....	20
Figure 11. Breakdown of Disciplinary Actions Taken for Sexual Assault Offenses, FY07 – FY18 .....	22
Figure 12. Dispositions of Cases with Sexual Assault Court-Martial Charges Preferred, FY18 .....	24
Figure 13. Dispositions of Cases with Sexual Assault Court-Martial Charges Preferred by Crime Charged, FY18.....	25
Figure 14. Dispositions of Cases Receiving Nonjudicial Punishment, FY18 .....	27
Figure 15. Cases with Probable Cause for Non-Sexual Assault Offenses, FY18.....	29
Figure 16. Restricted Reports Received and Converted, FY07 – FY18 .....	32
Figure 17. Average Number of Service Referrals per Service Member who Reported Sexual Assault, FY07 – FY18.....	34
Figure 18. SAFEs involving Service Member Victims, FY07 – FY18.....	34
Figure 19. Reports of Sexual Assault in Combat Areas of Interest, FY08 – FY18.....	36
Figure 20. Reports of Perceived Retaliation Made to DoD, FY18.....	42
Figure 21. Reports of Sexual Assault, Completed Investigations, and Case Dispositions, FY16.....	45
Figure 22. Cases Outside DoD Legal Authority, FY16 .....	46
Figure 23. Dispositions of Cases under DoD Legal Authority, FY16 .....	47
Figure 24. Court-Martial Preferred for Sexual Assault, FY16 .....	49
Figure 25. Actions Taken in Completed Investigations of Unrestricted Reports, FY14 – FY16 .....	50
Figure 26. Actions Taken Based on Crime Alleged, FY14 – FY16 .....	51

# List of Tables

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Table 1. Sexual Assault Reports by Victim and Military Status, FY18 .....	8
Table 2. Reporting Rate per Thousand by Fiscal Year and Service, FY07 – FY18.....	9
Table 3. Unrestricted Reports of Sexual Assault by Offense Alleged and Military Status, FY18.....	13
Table 4. Case Dispositions Reported in FY18 .....	18
Table 5. Sex of Victims and Alleged Subjects in Completed Investigations of Unrestricted Reports, FY18 .....	30
Table 6. Age of Victims and Alleged Subjects in Completed Investigations of Unrestricted Reports, FY18 .....	30
Table 7. Grade/Status of Victims and Alleged Subjects in Completed Investigations of Unrestricted Reports, FY18 .....	31
Table 8. Sex of Those Who Made Restricted Reports, FY18 .....	32
Table 9. Age of Those in Restricted Reports at Time of Incident, FY18 .....	33
Table 10. Grade or Status of Those in Restricted Reports at Time of Report, FY18.....	33
Table 11. Expedited Transfers and Denials, FY12 – FY18.....	35
Table 12. Unrestricted and Restricted Reports by Combat Area of Interest, FY18 .....	37
Table 13. CMG Action Taken to Address Retaliation Allegations, FY18 .....	39
Table 14. Sex of Retaliation Reporters in Investigations of Perceived Retaliation, FY18 .....	40
Table 15. Type of Report Related to Investigations of Perceived Retaliation, FY18 .....	40
Table 16. Type of Retaliation Reporter in Investigations of Perceived Retaliation, FY18 .....	40
Table 17. Relationship of the Alleged Retaliator and the Reporter, FY18 .....	41
Table 18. Count of Retaliation Offenses Investigated, FY18 .....	41
Table 19. Outcomes of DoD IG Investigations, FY18 .....	43

# Appendix B: Statistical Data on Sexual Assault

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## Background

### Purpose

The Department of Defense (DoD) collects data on sexual assault to inform Sexual Assault Prevention and Response (SAPR) policy, program development, and oversight actions. Congress requires DoD to supply data about sexual assault reports and the outcome of sexual assault investigations. Each year, the Sexual Assault Response and Prevention Office (SAPRO) aggregates data on reports of sexual assault, analyzes the results, and presents them in this report.

### Scope

DoD uses the term “sexual assault” to refer to a range of crimes, including rape, sexual assault, forcible sodomy, aggravated sexual contact, abusive sexual contact, and attempts to commit these offenses, as defined by the Uniform Code of Military Justice (UCMJ). For the purpose of data analysis in this report, DoD organizes analyses by the most serious sexual assault allegation made by a victim or investigated by a Military Criminal Investigative Organization (MCIO).<sup>1</sup> The information in initial reports and/or behaviors alleged do not necessarily reflect the final findings of the investigators or the matter(s) addressed by court-martial charges or other forms of disciplinary action against suspects (referred to by DoD as “subjects of investigation” or “subjects”).

DoD’s sexual assault reporting statistics include data on penetrating and sexual contact crimes by adults against adults for matters defined in Articles 120 and 125 of the UCMJ, as well as Article 80, which governs attempts to commit these offenses.<sup>2</sup> Data analyses within this Appendix do not include:

- **Sexual harassment complaints.** The Office of Diversity, Equity, and Inclusion supplies information about sexual harassment complaints in Appendix F.
- **Sexual assault allegations involving spouses and/or intimate partners.** DoD Family Advocacy Program (FAP) supplies the domestic abuse-related sexual assault data in Appendices G and H.

While most victims and subjects in the following data are aged 18 or older, DoD statistics may capture information about victims and subjects aged 16 and 17 at the time of the report, which includes Service members approved for early enlistment. Additionally, 16- and 17-year-old

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<sup>1</sup> Criminal Investigative Command for Army, Naval Criminal Investigative Service for Navy and Marine Corps, and Air Force Office of Special Investigations for Air Force.

<sup>2</sup> Beginning January 1, 2019, the UCMJ will categorize acts that used to constitute forcible sodomy under Article 125 within the crime of rape or sexual assault under Article 120. In addition, to align with changes in the UCMJ, sexual contact crimes no longer encompass touching of body parts other than the genitals, inner thighs, breasts, and buttocks. Acts such as forcible kissing or nonconsensual touching of other body regions may be deemed sexual harassment, assault consummated by a battery, or another crime under the UCMJ, depending on the facts of the case. These UCMJ changes will affect Fiscal Year 2019 reporting data and trends. The data for this report do not represent any of these changes.

military and civilian victims may be included in the data that follow, if such matters do not fall under the FAP's purview.

## Data Included

### *Unrestricted and Restricted Reports*

Per reporting requirements levied by Congress, DoD sexual assault data capture Restricted and Unrestricted Reports of sexual assault made to DoD during a Fiscal Year (FY) involving a military person as an alleged perpetrator and/or a victim.<sup>3</sup>

Victims make a Restricted Report to specified individuals (e.g., Sexual Assault Response Coordinators (SARCs), SAPR Victim Advocates (VAs), or healthcare providers), enabling confidential access to care and services. These reports are not referred for investigation and do not involve command authorities. Given the desire for confidentiality, the victim is not asked to provide extensive details about the sexual assault. SARCs therefore record limited data about these victims and the alleged offenses in the Defense Sexual Assault Incident Database (DSAID). Furthermore, DoD does not request or enter subject information into DSAID for Restricted Reports. A victim can choose to participate in the justice system by converting a Restricted Report to an Unrestricted Report at any time.

Unlike a Restricted Report, an Unrestricted Report of sexual assault is referred for investigation to an MCIO, and command is notified of the alleged incident. DoD collects data on Unrestricted Reports from the cases entered into DSAID by SARCs. Additionally, MCIO information systems interface with DSAID in order to incorporate subject and investigative case information into records.

Notably, the number of sexual assaults reported to DoD in a given year is not necessarily indicative of the number of sexual assaults that may have occurred that year. This difference exists because not all sexual assault victims report the crime. DoD estimates the annual sexual assault prevalence using survey responses to the *Workplace and Gender Relations Survey of the Active Duty Members (WGRA)*. The difference between estimated prevalence and the number of reports received is described in greater detail in Figure 3 of this Appendix.

### *Case Dispositions*

Once the investigation of an Unrestricted Report is complete, Congress requires the Military Services to report the outcome or "case disposition" of the allegations against each subject named in an investigation (See Appendix D for individual case synopses). When a person is the subject of multiple investigations, he or she will also be associated with more than one case disposition in DSAID. DoD holds Service member subjects who have committed sexual assault appropriately accountable based on the evidence available.

Upon completion of a criminal investigation, the MCIO conducting the investigation provides a report documenting investigative findings to the subject's commander for military justice action. The servicing staff judge advocate also reviews the MCIO report and recommends appropriate legal or other action. For investigations of rape, sexual assault, forcible sodomy, and attempts to commit these crimes, a senior military officer who is at least a special court-martial convening

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<sup>3</sup> Use of the term "victim," "subject," "perpetrator," or "offender" does not convey any presumption about the guilt or innocence of the alleged offenders, nor does the use of the term "incident" legally substantiate an occurrence of a sexual assault.

authority (SPCMCA) and in the grade of O-6 (Colonel or Navy Captain) or higher retains initial disposition authority over the matters alleged.

The SPCMCA determines which initial disposition action is appropriate, to include whether further action is warranted and, if so, whether the matter should be addressed by court-martial, nonjudicial punishment, administrative discharge, or other adverse administrative action. The SPCMCA bases the initial disposition decision on a review of the matters transmitted in the investigative report, any independent review, and in consultation with military attorneys. Subordinate unit commanders may also provide their own recommendations regarding initial disposition to the convening authority.

Disciplinary action against a particular subject may not always be possible due to legal issues or evidentiary problems with a case. For instance, a commander may be precluded from taking disciplinary action against a subject when the investigation fails to show sufficient evidence of a crime to prosecute, or when the victim declines to participate in the justice process. Furthermore, DoD's legal authority extends only to Service members under the purview of the UCMJ. Civilians are not subject to the UCMJ for the purpose of court-martial jurisdiction, except in rare circumstances, such as in deployed environments when accompanying the Armed Forces. In FY18, one civilian subject had court-martial charges preferred for allegedly perpetrating sexual assault against a Service member.

Additionally, U.S. civilian authorities and foreign host nations hold primary responsibility for prosecuting citizens who are alleged to have perpetrated sexual assault against Service members within their respective jurisdictions.<sup>4</sup> This may occur when a civilian accuses a Service member of a sexual assault, or when a state holds primary jurisdiction over the location where a Service member was alleged to have committed sexual assault. In some cases, the civilian authority and DoD may agree to let the military exercise its legal authority over its members. Prosecutions by civilian authorities against Service members are determined on a case-by-case and jurisdiction-by-jurisdiction basis. Prosecutions of Service members by a foreign nation are often governed by the Status of Forces Agreement (SOFA) between that country and the U.S.

## Period Covered

This Annual Report includes data on sexual assaults reported from October 1, 2017 to September 30, 2018, as well as information that describes the status of sexual assault reports, investigations, and case dispositions for FY18.

Sexual assault investigations can extend across FYs, because investigations may span several months from start to completion. As a result, investigations opened toward the end of the FY typically carry over into the next FY. Disciplinary actions, such as court-martial and discharge proceedings also take time; therefore, reporting of these outcomes can extend across FYs. When the outcome has yet to be determined, case dispositions are marked as "pending completion" at the end of the FY. DoD tracks pending dispositions and requires the Military Services to report them in subsequent years' reports.

Under DoD's SAPR policy, there is no time limit as to when a sexual assault victim can report a sexual assault. Consequently, DoD receives reports about incidents that occurred during the current FY, incidents that occurred in previous FYs, and incidents that occurred prior to military

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<sup>4</sup> A host nation's ability to prosecute a Service member is subject to the SOFA between the U.S. and a particular foreign government. SOFAs vary from country to country.

service. When a Service member reports a sexual assault that occurred prior to their enlistment or commissioning, DoD provides care and services, but may not be able to hold the alleged offender appropriately accountable if he or she is not subject to military law. In these cases, DoD authorities often assist the victim in contacting the appropriate civilian or foreign law enforcement agency.

## Data Collection

DoD and the Military Services use DSAID to enter and store data on Restricted and Unrestricted Reports of sexual assault. For each report of sexual assault, SARCs must use DSAID to enter information about the victim and the incident. DSAID interfaces with MCIO systems, which contribute additional information about alleged subjects and the incident(s). MCIO databases are the systems of record for all Unrestricted Reports they investigate. Service-appointed legal officers validate and enter case disposition information into DSAID. Since DSAID is a real-time data-gathering tool:

- **Not all data points are immediately available for this report.** Data provided on sexual assault reports represent the state of DSAID data at the time of the final pull for FY18. Data may be incomplete at the time of the DSAID data pull, despite best efforts by DoD and the Services to capture all data points. Therefore, some demographic or case-related information presented below is categorized as “relevant data not available.”
- **Data may change over time and may differ from what DoD reported previously.** Updates, changes, and corrections occur as a normal, continuous process of DSAID data management. SAPRO works with Service SAPR program managers to validate entries, identify errors, and make corrections throughout the year. In addition, the investigative process may also uncover additional information. For example, an investigation may clear some alleged subjects of wrongdoing or implicate others. Data presented here reflect this rigorous process.

## Overview of Reports of Sexual Assault in FY18

In FY18, the Military Services received 7,623 reports of sexual assault involving Service members as either victims or subjects (Table 1 and Figure 1), approximately a 13 percent increase from reports made in FY17.

As stated above, DoD sexual assault reports are categorized as either Restricted or Unrestricted. Of the 7,623 reports received in FY18, 1,818 reports remained Restricted at the end of the year, a 10 percent increase from the number remaining Restricted in FY17. Of these, 328 reports (18 percent) involved incidents that occurred prior to Service member’s military service.

Of the 7,623 reports, 5,805 reports were Unrestricted, a 14 percent increase from the number of Unrestricted Reports in FY17.<sup>5</sup> Of these, 295 reports (5 percent)

***Of the 7,623 reports of sexual assault involving Service members, how many were made by Service members?***

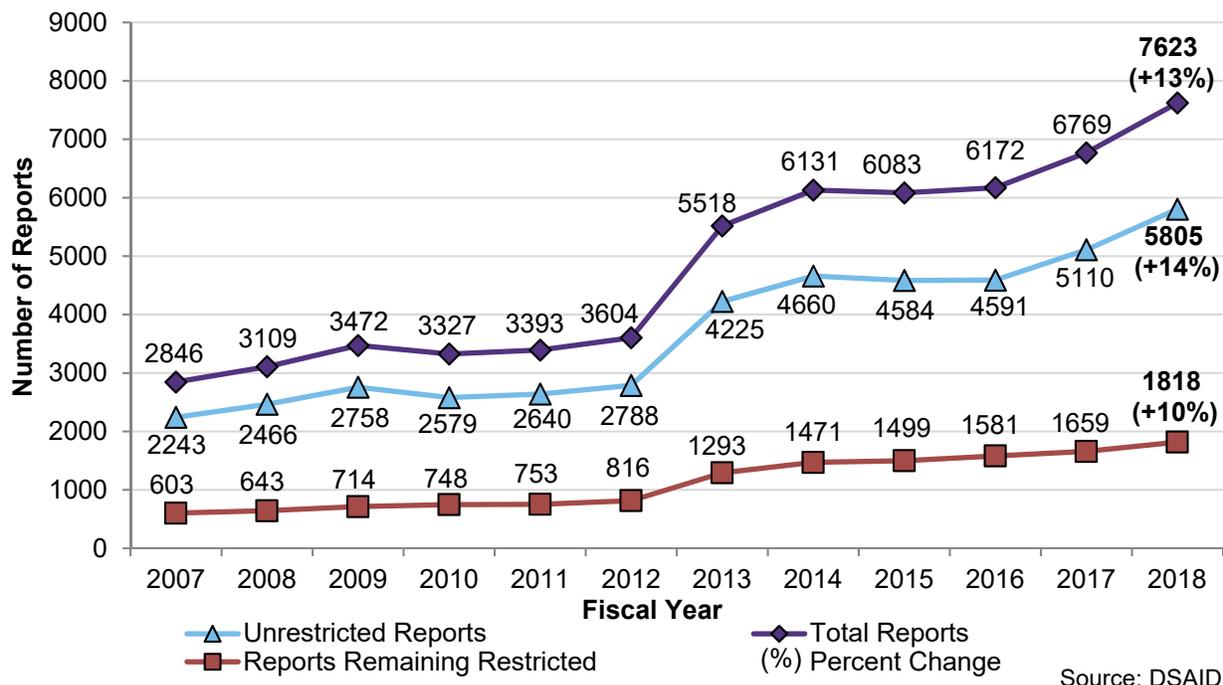
Service members made 6,676 reports. Of these, 623 reports were for incidents that occurred prior to military Service and 6,053 reports were for incidents that occurred during military Service.

***Who made the other reports?***

943 reports came from U.S. civilians, foreign nationals, and others who were not on active duty status with the U.S. Armed Forces. Relevant data were not available for 4 reports.

<sup>5</sup> DoD pulls and analyzes data from DSAID six weeks after the end of each FY to allow sufficient time for data validation. DSAID is a “live” database, meaning that its records change daily to reflect case status. During this six-week period, 44 additional Restricted Reports converted to Unrestricted. After a report converts from Restricted to Unrestricted, all data associated with the report is then counted in the Unrestricted Report category. These 44 reports that were made during the FY, converted to Unrestricted in the six-week period after the end of the FY, and are included with the 548 reports that converted from Restricted to Unrestricted. This has been the DoD’s practice since moving to DSAID in 2014.

involved incidents that occurred prior to military service. Figure 1 displays the trend in Unrestricted and Restricted Reporting from FY07 to FY18.



**Figure 1. Reports of Sexual Assault Made to DoD, FY07 – FY18**

Table 1 is a breakdown of reports by who reported, type of report, and whether the report was for an event prior to military service.

**Table 1. Sexual Assault Reports by Victim and Military Status, FY18**

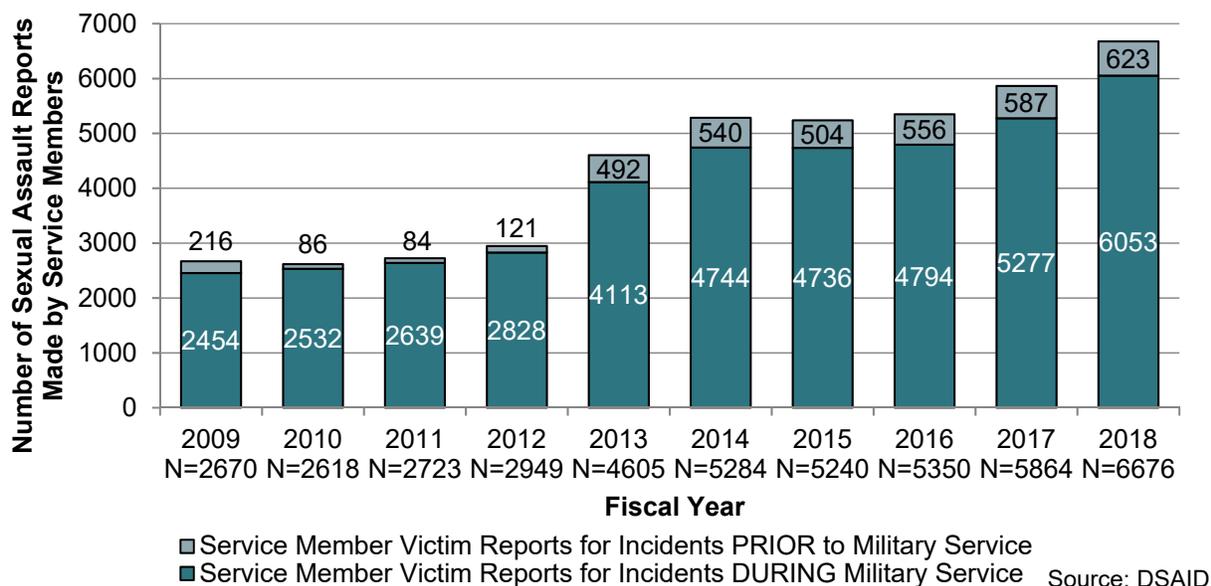
	Unrestricted Reports	Restricted Reports	Total Reports
<b>Total Reports of Sexual Assault</b>	<b>5,805</b>	<b>1,818</b>	<b>7,623</b>
Reports Made by Service Members	4,898	1,778	6,676
Reports Made by Non-Service Members	903	40	943
DoD Civilian	30	8	38
DoD Contractor	11	0	11
Other U.S. Civilian	813	32	845
Foreign National/Military	49	0	49
Relevant Data Not Available	4	0	4
Service Member Reports for Incidents that Occurred <b>Prior</b> to Military Service	295	328	623
Service Member Reports for Incidents that Occurred <b>During</b> Military Service	4,603	1,450	6,053

To compare sexual assault reports across Military Services with varied population sizes, DoD calculates a reporting rate.<sup>6</sup> Reporting rates also allow for year-over-year comparisons, even when the total number of people in a group has changed. In FY18, for every 1,000 Service members, 5.1 Service members made a Restricted or Unrestricted Report of sexual assault, an increase from FY17 and prior years. Table 2 compares the reporting rate by Military Service and across FYs. In FY18, the largest increase in reporting occurred among the Marine Corps.

**Table 2. Reporting Rate per Thousand by Fiscal Year and Service, FY07 – FY18**

Service	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Total DoD	1.6	1.7	1.9	1.8	1.9	2.1	3.3	3.9	4.0	4.1	4.5	5.1
Army	2.4	2.5	2.6	2.4	2.5	2.3	3.5	4.2	4.2	4.4	4.7	5.5
Navy	1.0	1.2	1.6	1.6	1.6	2.1	3.2	3.6	3.8	4.1	4.5	4.8
Marine Corps	0.9	0.8	1.3	1.1	1.3	1.7	3.8	4.1	4.1	4.1	4.8	5.7
Air Force	1.4	1.5	1.4	1.6	1.6	2.0	2.9	3.7	3.7	3.7	4.0	4.3

Research shows that reporting sexual assault increases the likelihood that victims will engage in medical treatment and other forms of assistance.<sup>7</sup> SAPRO encourages victims to report sexual assault, works to improve response capabilities for victims, and supports victim participation in the military justice process. Figure 2 shows the reporting trends in the number of Service members making sexual assault reports for incidents they experienced before joining into military service and the number of reports for incidents experienced during military service.



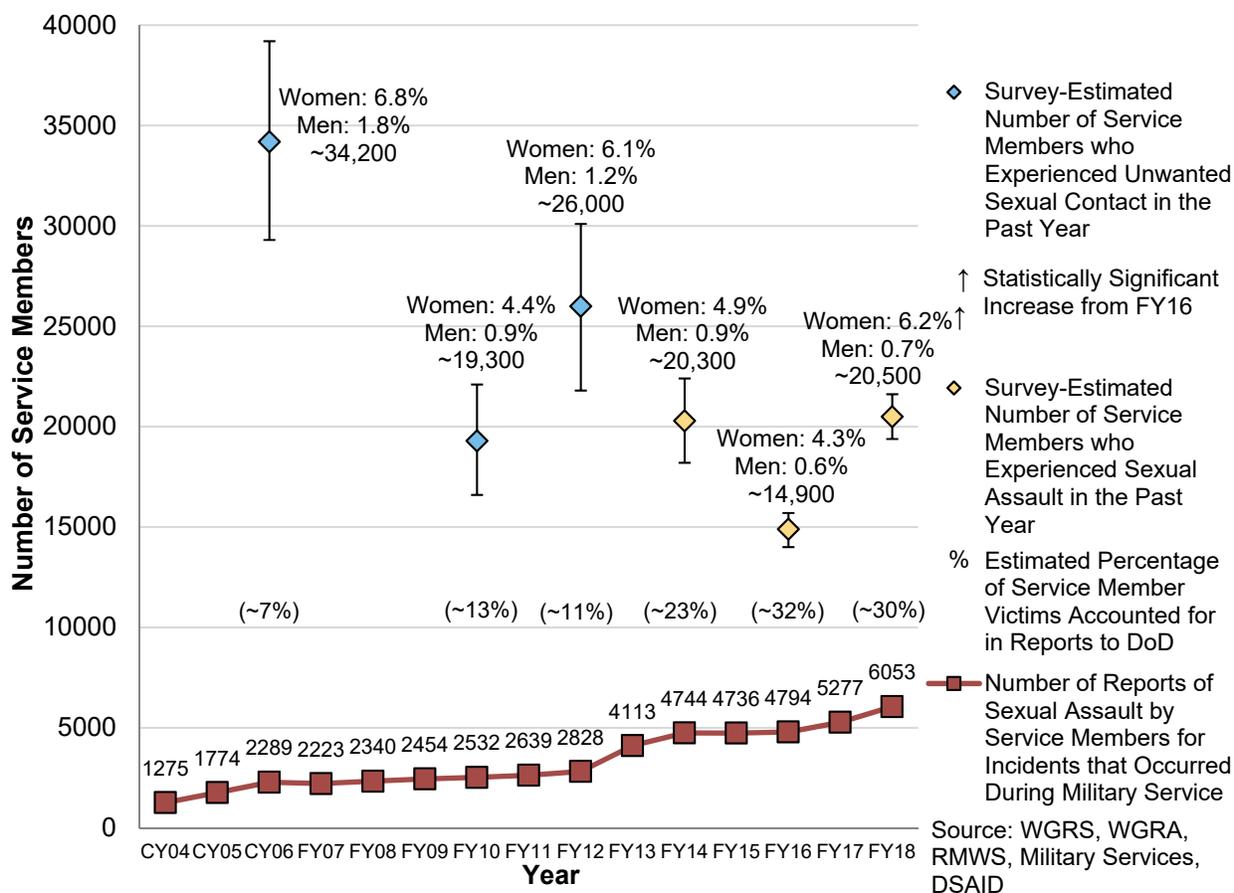
**Figure 2. DoD Sexual Assault Reports Made by Service Members for Incidents that Occurred During and Prior to Military Service, FY09 – FY18**

Reporting data provide limited insight into the problem of sexual assault. Sexual assault is an underreported crime among both the civilian and military populations, meaning that the number of individuals who report the crime to law enforcement falls far short of the number of individuals

<sup>6</sup> DoD calculates victim-reporting rates using the number of Service member victims in Unrestricted and Restricted Reports and Active Duty Military Service end-strength for each year on record with the Office of People Analytics (OPA).

<sup>7</sup> DOJ (2002). Rape and Sexual Assault: Reporting to Police and Medical Attention, 1992–2000. Washington, DC: Rennison, Callie Marie.

who have likely experienced the crime. Therefore, the Department utilizes the *WGRA* to estimate the number of Service members who experienced a sexual assault, ranging from unwanted sexual contact to penetrating crimes, in the past year. DoD then compares those estimates to the number of Service members who reported a sexual assault. Figure 3 shows the difference between the survey-estimated number of Service members who indicated they experienced sexual assault, based on the *WGRA*, and the number of Service members who reported a sexual assault incident occurring during military service. DoD administers its sexual assault prevalence survey biennially, thus prevalence estimates are available for CY06, FY10, FY12, FY14, FY16, and FY18.



**Figure 3. Estimated Number of Service Members who Indicated an Experience of Sexual Assault in the Past Year Compared to the Number of Service Members who Made Reports of Sexual Assault for Incidents that Occurred during Military Service, CY04 – FY18**

**Note:** The “unwanted sexual contact” measure refers to the survey administered by OPA in CY06, FY10, and FY12. The “sexual assault” measure used in FY14, FY16, and FY18 was designed to align more closely with legal language from UCMJ. While the measures use different methods to estimate the past-year occurrence of penetrating and contact sexual crime, they have been shown to generate statistically comparable estimates.

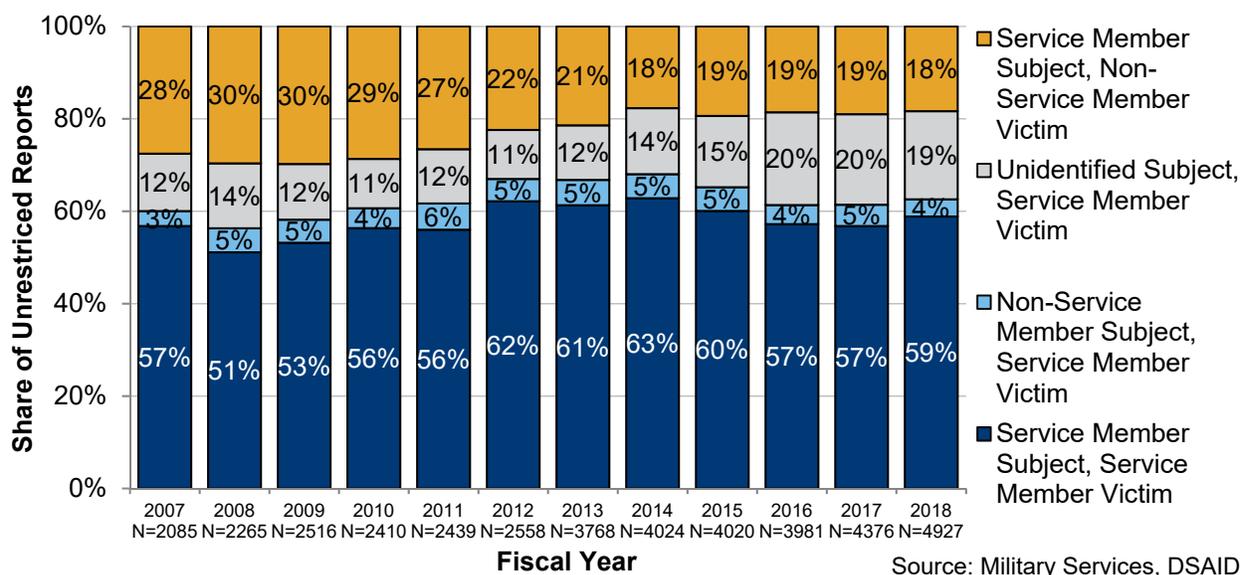
Estimated past-year prevalence rates of sexual assault increased significantly for active duty women but remained statistically the same for men in FY18. Corresponding estimates of the number of Service members experiencing sexual assault in the year prior to being surveyed also increased from about 14,900 in FY16 to 20,500 in FY18, as illustrated above in Figure 3. Of the 20,500 estimated victims in FY18, about 13,000 were women and 7,500 were men. The

number of Service members choosing to report a sexual assault also increased, from 5,277 to 6,053.

While the Department encourages greater reporting, it works to decrease the estimated occurrence of sexual assault through prevention activities. In FY18, sexual assault reports increased from previous years. Additionally, the percentage of victimized Service members choosing to report the crime remained approximately the same in FY18 (30 percent) from FY16 (32 percent). As in FY16, women reported sexual assault at a higher rate than men. Specifically, about 37 percent (4,788/13,000) of female Service members who were estimated to have experienced sexual assault reported the crime, compared to 17 percent (1,265/7,500) of men. However, this year's total marks the largest number of reports received by DoD since it started reporting Service-wide statistics in 2004.

### Unrestricted Reports of Sexual Assault

In FY18, there were 5,805 Unrestricted Reports of sexual assault involving Service members as either the alleged subject or victim of a sexual assault.<sup>8</sup> For a detailed analysis of victim demographics in completed investigations, see page 30. Each FY, most sexual assault reports received by MCIOs involve the victimization of Service members by other Service members. In FY18, 2,901 Unrestricted Reports involved allegations of sexual assault perpetrated by a Service member against a Service member. Figure 4 below shows Service member involvement in Unrestricted Reports of sexual assault between FY07 and FY18.



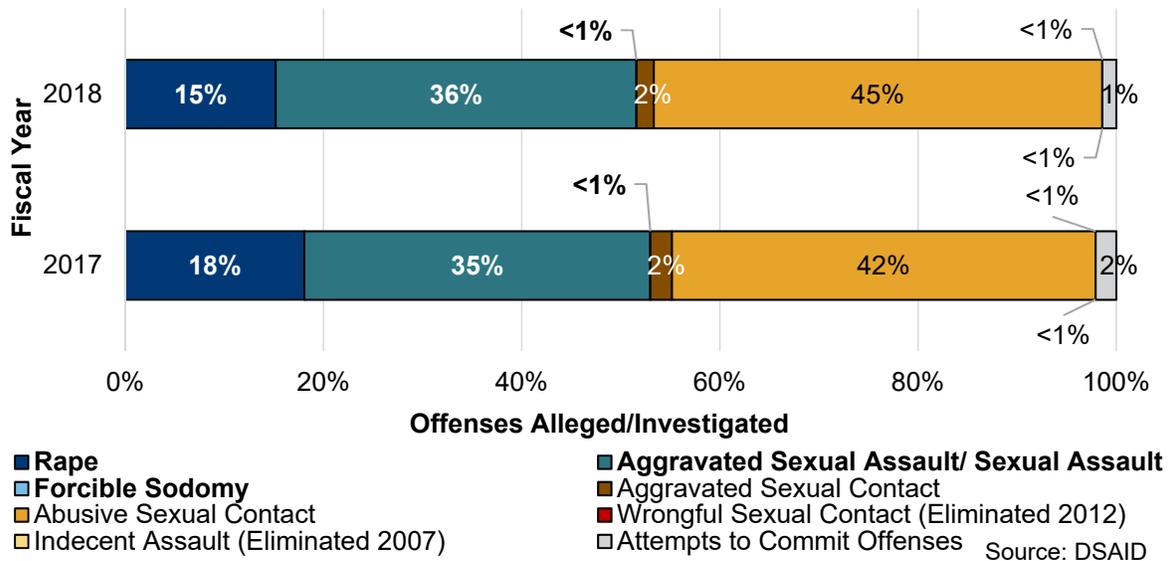
**Figure 4. Unrestricted Reports of Sexual Assault by Service Member Involvement, FY07 – FY18**

**Note:** There were 5,768 Unrestricted Reports in FY18, 5,110 Unrestricted Reports in FY17, 4,591 Unrestricted Reports in FY16, and 4,584 Unrestricted Reports in FY15. However, 841 reports from FY18, 734 reports from FY17, 610 reports from FY16, and 564 reports from FY15 were excluded due to missing data on subject and/or victim type.

<sup>8</sup> DoD pulls and analyzes data from DSAID six weeks after the end of each FY to allow sufficient time for data validation. DSAID is a "live" database, meaning that its records change daily to reflect case status. During this six-week period, 44 additional Restricted Reports converted to Unrestricted. After a report converts from Restricted to Unrestricted, all data associated with the report is then counted in the Unrestricted Report category. These 44 reports that were made during the FY, converted to Unrestricted in the six-week period after the end of the FY, and are included with the 548 reports that converted from Restricted to Unrestricted. This has been the DoD's practice since moving to DSAID in 2014.

## Crimes Alleged in Unrestricted Reports

Of the Unrestricted Reports made to DoD in FY18, the majority of offenses alleged fall into three categories: rape, aggravated sexual assault/sexual assault, and abusive sexual contact. MCIOs categorize Unrestricted Reports by the most serious offense *alleged* in the report, which may not ultimately be the same offense for which evidence supports a misconduct charge, if any. Figure 5 below shows the breakdown of Unrestricted Reports of sexual assault by offense originally alleged, while Table 3 presents the offense originally alleged, broken down by the military status of the victim.



**Figure 5. Offenses Originally Alleged in Unrestricted Reports of Sexual Assault, FY18**

**Note:** 567 cases have been excluded from this chart due to missing data on the offense originally alleged, which can occur if MCIOs have not yet entered the allegation, particularly for reports made closer to the end of the FY. Percentages do not sum to 100 percent due to rounding. **Bold** text labels designate penetrating crimes (rape, aggravated sexual assault/sexual assault, and forcible sodomy).

**Table 3. Unrestricted Reports of Sexual Assault by Offense Alleged and Military Status, FY18**

Most Serious Offense Alleged in Report	Total Unrestricted Reports	Reports made by Service Members	Reports made by Non-Service Members	Relevant Data Not Available
Rape	786	572	213	1
Aggravated Sexual Assault and Sexual Assault	1,887	1,527	360	0
Aggravated Sexual Contact	91	83	8	0
Abusive Sexual Contact	2,345	2,051	292	2
Wrongful Sexual Contact	10	10	0	0
Indecent Assault	23	21	2	0
Forcible Sodomy	20	19	1	0
Attempts to Commit Offenses	73	70	3	0
Offense Data Not Available	570	545	24	1
<b>Total Unrestricted Reports</b>	<b>5,805</b>	<b>4,898</b>	<b>903</b>	<b>4</b>

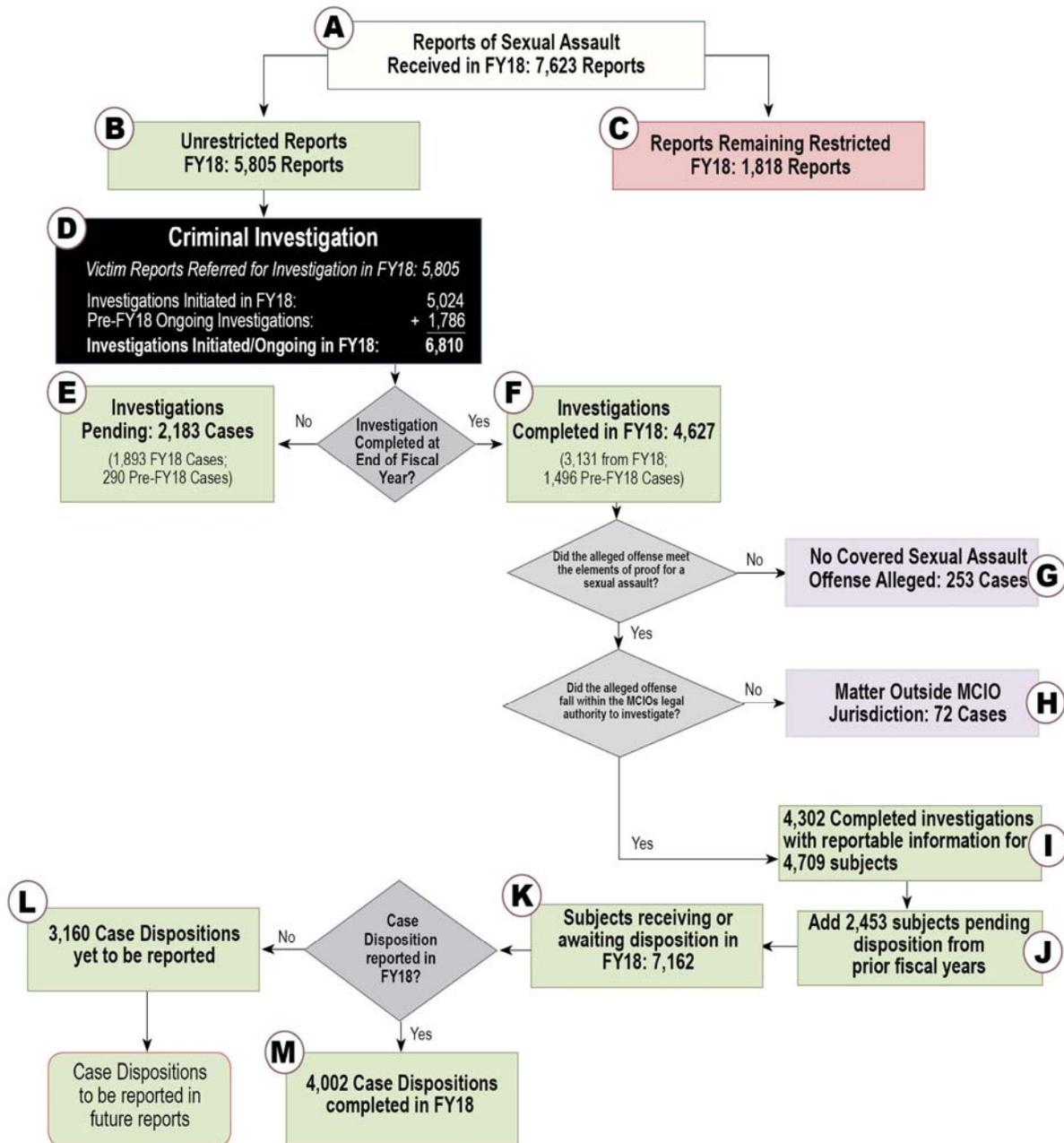
### Investigations of Unrestricted Reports

This section closely follows the flow chart shown in Figure 6. In FY18, 5,805 Unrestricted Reports were referred to MCIOs for investigation. DoD policy requires all Unrestricted Reports be referred for investigation by an MCIO. The length of an investigation may vary, from a few months to over a year, depending on several factors, including:

- Offense(s) alleged
- Location and availability of the alleged victim, subject, and witnesses
- Amount and kind of physical evidence gathered during the investigation
- Length of time required for crime laboratory analysis of evidence

The average length of a sexual assault investigation in FY18 was four months, since sexual assault investigations and each alleged subject’s case disposition can span multiple reporting periods.

Of the 4,627 sexual assault investigations MCIOs completed during FY18, 3,131 of those sexual assault investigations were opened in FY18, and 1,496 investigations were opened in years prior to FY18. Of the 4,627 investigations completed in FY18, 253 cases did not meet the elements of proof for sexual assault or were investigated for some misconduct other than sexual assault (Figure 6, Point G) and 72 cases did not fall within MCIOs’ legal authority to investigate (the report was for an incident prior to Service or the matter was outside MCIO jurisdiction; Figure 6, Point H). In total, there was reportable information for 4,709 alleged subjects. In future reports, DoD will document the outcomes of the 3,160 sexual assault case dispositions that were not completed by September 30, 2018 (Figure 6, Point L).



Source: DSAID

**Figure 6. Reports of Sexual Assault, Completed Investigations, and Case Dispositions, FY18**

**Notes:**

1. For incidents that occurred on or after June 28, 2012, the term “sexual assault” refers to the crimes of rape, sexual assault, aggravated sexual contact, abusive sexual contact, forcible sodomy, and attempts to commit these offenses.
2. The number of investigations initiated in FY18 is lower than the number of victim reports referred for investigation because there can be multiple victims in a single investigation, some investigations referred in FY18 did not begin until FY19, and some allegations could not be investigated by DoD or civilian law enforcement.
3. DoD pulls and analyzes data from DSAID six weeks after the end of each FY to allow sufficient time for data validation. DSAID is a “live” database, meaning that its records change daily to

reflect case status. During this six-week period, 44 additional Restricted Reports converted to Unrestricted. After a report converts from Restricted to Unrestricted, all data associated with the report is then counted in the Unrestricted Report category. These 44 reports that were made during the FY, converted to Unrestricted in the six-week period after the end of the FY, and are included with the 548 reports that converted from Restricted to Unrestricted. This has been DoD's practice since moving to DSAID in 2014.

## Sexual Assault Case Dispositions

The goals of a criminal investigation are to identify the victim, the alleged perpetrator, and crimes committed. DoD seeks to hold Service members alleged to have committed sexual assault appropriately accountable based on the available evidence.

To standardize and improve the reliability and validity of DSAID data, DoD has hosted several meetings with legal officers and military criminal investigators across the Services to discuss consistency in reporting disposition data. These meetings have allowed the Services to share best practices and ensure standardization among entries. DoD will continue to facilitate sharing of best practices across Service legal officers and military criminal investigators to maintain data integrity.

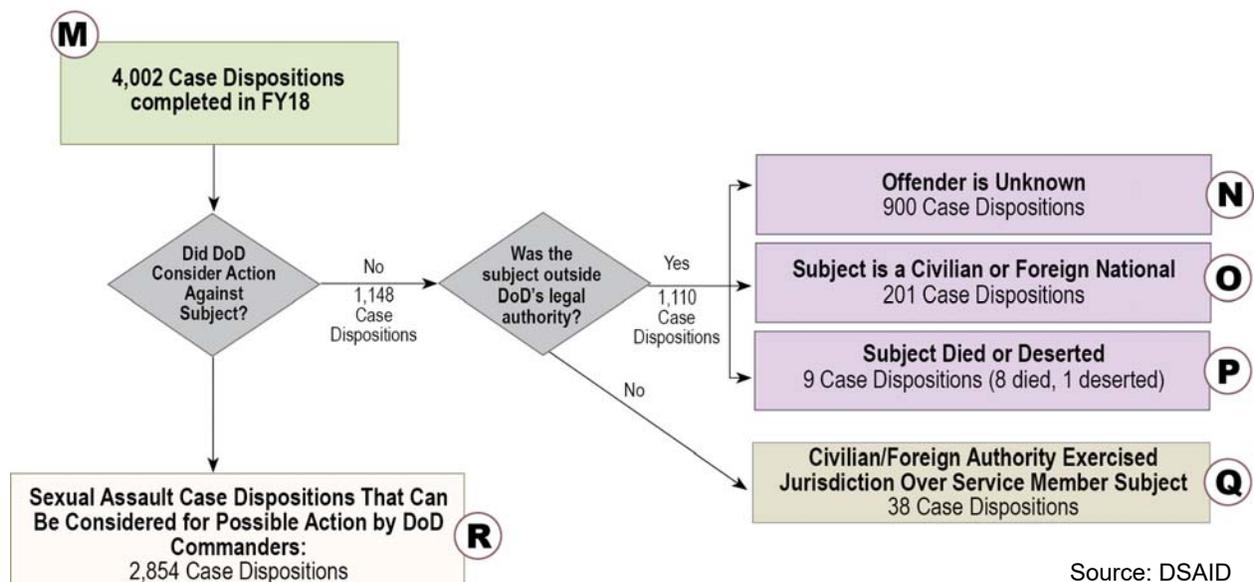
Congress requires DoD to report on the case dispositions (outcomes) of sexual assault allegations in Unrestricted Reports made against Service members (DoDI 6495.02). When a person is the subject of multiple investigations, he or she will also be associated with more than one case disposition in DSAID. Since DoD must report outcomes for each of these investigations, subjects who have multiple investigations will have a disposition associated with each of those investigations. The Services may address multiple investigations of a subject with one action (e.g., one court-martial for multiple investigations) or may address those investigations with separate actions (e.g., a court-martial for one allegation and then a nonjudicial punishment for another unrelated allegation).

This year, 64 subjects received multiple dispositions for sexual assault allegations. These 64 subjects received a total 140 dispositions, which accounts for 3.5 percent of all dispositions reported in FY18. The following data describe the case dispositions of each investigation reported to the DoD in FY18.

At the end of FY18, there were 4,002 case dispositions with information for reports made in FY18 and prior FYs. Of the subjects accounted for in these case dispositions, 47 (1 percent) had a prior investigation for a sexual assault offense. The 4,002 case dispositions from DoD investigations in FY18 included Service members, U.S. civilians, foreign nationals, and subjects that could not be identified (Figure 7).

### **Can DoD take action against everyone it investigates?**

No. In FY18, DoD could not take action in 1,148 cases, because they were outside DoD's legal authority or a civilian/foreign authority exercised jurisdiction over a Service member subject.



**Figure 7. Cases Outside DoD Legal Authority, FY18**

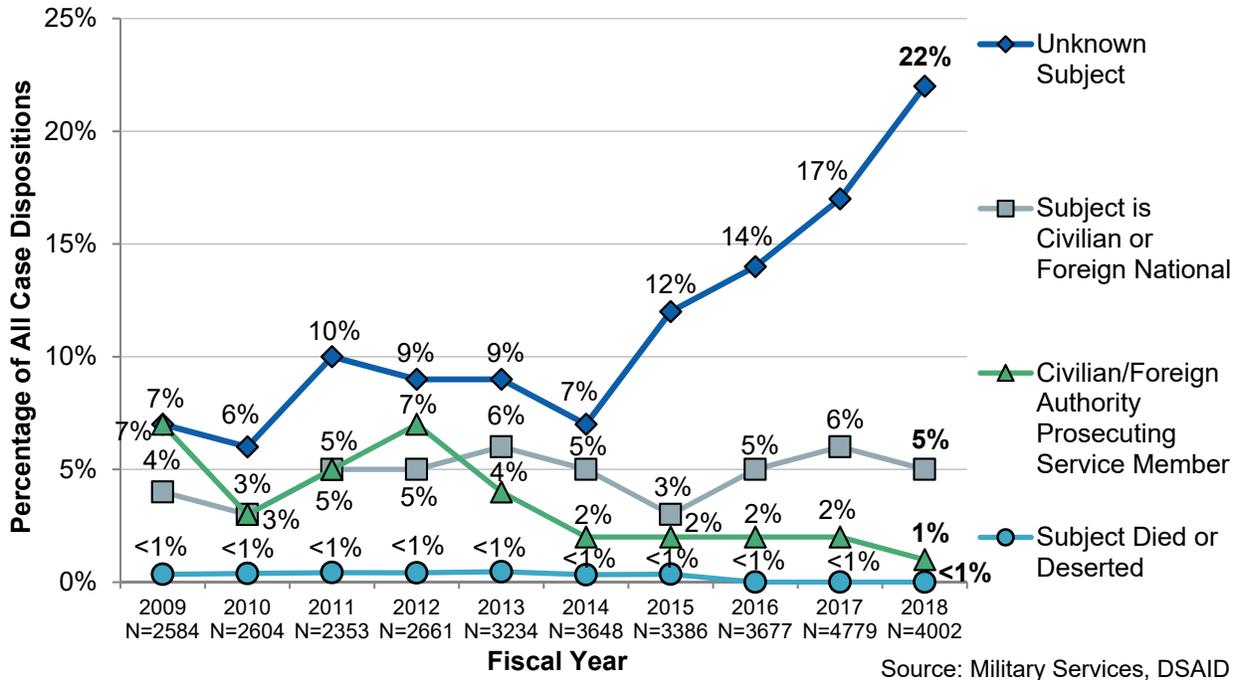
For the majority of cases in the military justice system, commanders are limited to taking action against Service members who are subject to the UCMJ. In FY18, DoD could not take action in 1,148 cases because:

- 1,110 cases were outside of DoD's legal authority (Figure 7, Points N through P). Specifically, MCIOs could not identify a subject despite a criminal investigation, a subject was a civilian or foreign national not under the military's authority, or a subject had died or deserted before DoD could take disciplinary action.
- 38 cases involved Service members prosecuted by a civilian/foreign authority (Figure 7, Point Q). While a Service member is always under the legal authority of DoD, sometimes a civilian authority or foreign government will exercise its legal authority over a Service member who is suspected of committing a crime within its jurisdiction.

Figure 8 shows that DoD could not consider action in 29 percent of the 4,002 case dispositions that were completed in FY18. Of these, 22 percent were subjects that could not be identified, 5 percent were subjects that were civilians or foreign nationals not under the military's jurisdiction, 1 percent were subjects that were being prosecuted by a civilian or foreign authority, and less than 1 percent were subjects that had died or deserted.

This FY, DoD observed an increase in the percentage of cases involving unknown subjects since FY14. This is due in part to:

- Greater consistency in categorization of cases across DoD,
- MCIOs no longer making the determination on whether cases are founded, and
- Policy changes requiring MCIOs to open an investigation for every Unrestricted Report, including those made by third-parties.



**Figure 8. Cases Investigated for Sexual Assault by DoD with Subjects Who Were Outside Its Legal Authority or Service Members Prosecuted by a Civilian/Foreign Authority, FY09 – FY18**

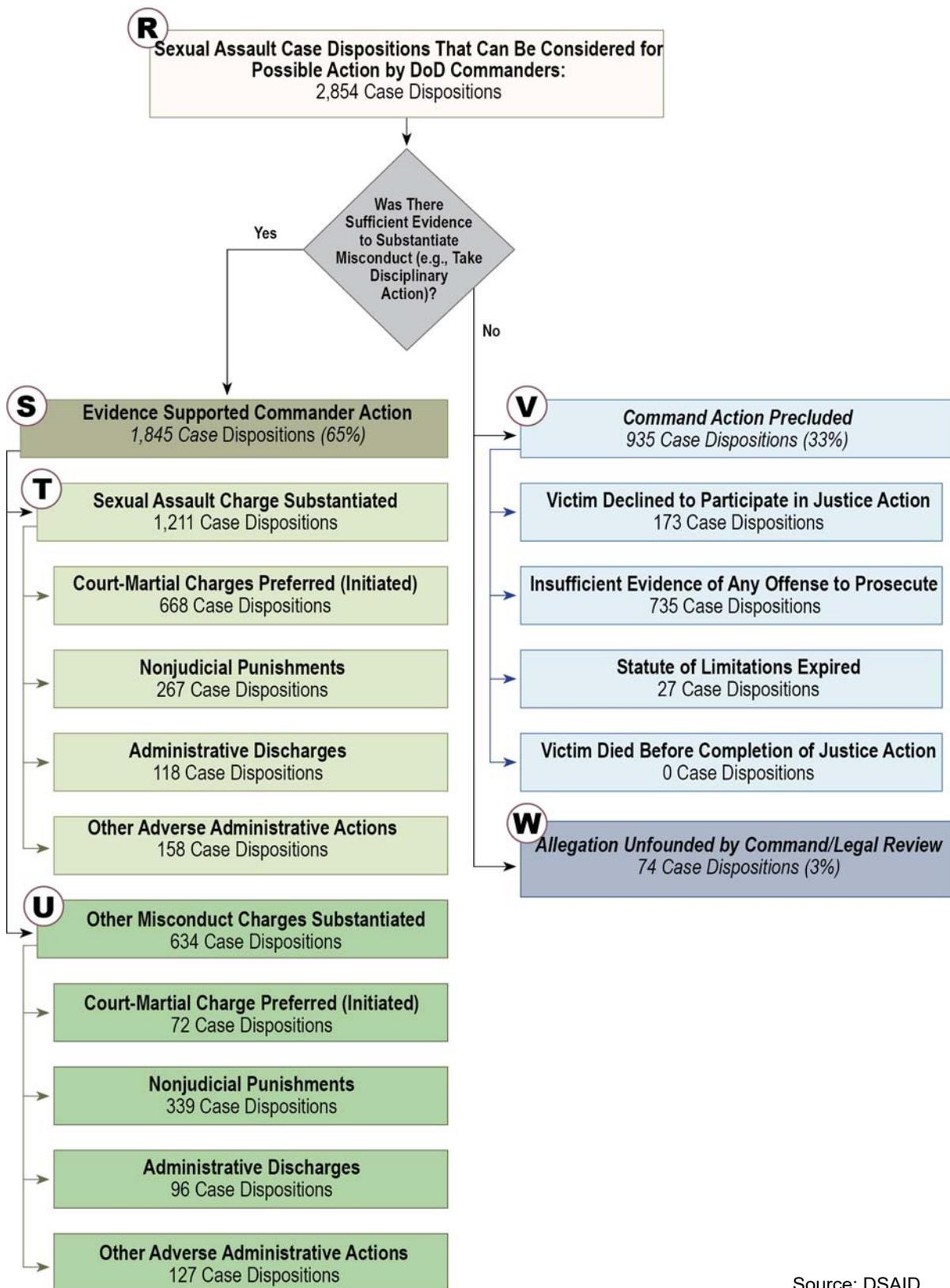
### Military Subjects Considered for Disciplinary Action

In FY18, there were 2,854 cases with completed dispositions which DoD could consider for possible action. Below, Table 4 and Figure 9 show dispositions of cases with military subjects under DoD legal authority. Of the 2,854 cases, 242 involved alleged assaults against multiple victims.

**Table 4. Case Dispositions Reported in FY18**

<b>Case Disposition Category</b>	<b>Count of Case Dispositions</b>	<b>Share of Case Dispositions</b>
Sexual Assault Investigation That Can Be Considered for Possible Action by DoD Commanders	2,854	N/A
<b>Evidence Supported Commander Action</b>	1,845	65%
<u>Sexual Assault Offense Action</u>	1,211	66%
<i>Court-Martial Charge Preferred (Initiated)</i>	668	55%
<i>Nonjudicial Punishment (Article 15, UCMJ)</i>	267	22%
<i>Administrative Discharge</i>	118	10%
<i>Other Adverse Administrative Action</i>	158	13%
<u>Non-Sexual Assault Offense Action</u>	634	34%
<i>Court-Martial Charge Preferred (Initiated)</i>	72	11%
<i>Nonjudicial Punishment (Article 15, UCMJ)</i>	339	53%
<i>Administrative Discharge</i>	96	15%
<i>Other Adverse Administrative Action</i>	127	20%
<b>Unfounded by Command/Legal Review</b>	74	3%
<b>Commander Action Precluded</b>	935	33%
<i>Victim Died</i>	0	0%
<i>Victim Declined to Participate in the Military Justice Action</i>	173	19%
<i>Insufficient Evidence to Prosecute</i>	735	79%
<i>Statute of Limitations Expired</i>	27	3%

**Note:** Victims who were assaulted by multiple subjects are counted only once to correspond with the subject who received the most serious disposition.



Source: DSAID

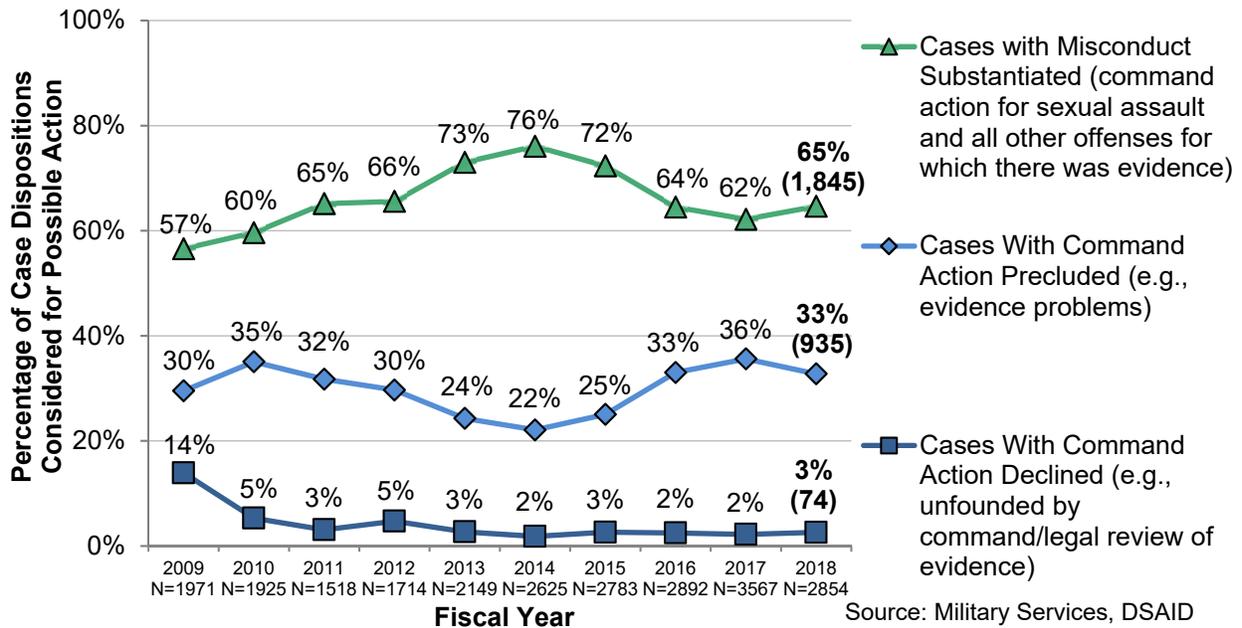
**Figure 9. Dispositions of Cases under DoD Legal Authority, FY18**

### Command Action Precluded or Declined

Legal factors occasionally prevent DoD from taking disciplinary action against subjects. For example, commanders could not take disciplinary action in 935 cases due to insufficient evidence of an offense, the victim declining to participate in the military justice process, or the statute of limitations expiring (Figure 9, Point V).

Two potential situations can lead MCIOs to conclude that the allegations of a crime should be unfounded, meaning the allegation is categorized as false or baseless. A case is determined to be false when (1) evidence discovered demonstrates that the accused person did not commit the offense, or (2) evidence refutes the occurrence of a crime. A case is determined to be baseless when it was improperly reported as a sexual assault. After examining the evidence in each case with a military attorney, commanders declined to take action in 74 cases because available evidence indicated the allegations against these subjects were false or baseless (unfounded; Figure 9, Point W).<sup>9</sup>

Figure 10 illustrates the percentage of cases in which command action was precluded (e.g., insufficient evidence or victim declined to participate), command action was declined (unfounded), or command action was taken (e.g., court-martial preferred or nonjudicial punishment). SAPRO and the Military Services continue to conduct comprehensive reviews of legal data in DSAID. Database tracking of outcomes also ensures greater accountability of cases over time since DoD moved to DSAID in FY14.



**Figure 10. Percentage of Cases with Misconduct Substantiated, Command Action Precluded, and Command Action Declined, FY09 – FY18**

**Note:** Percentages listed for some years do not sum to 100 percent due to rounding.

<sup>9</sup> In prior FYs, DoD presented data on allegations investigated by the MCIOs that were unfounded by legal review. In FY15, DoD developed new categories to more accurately reflect the nature and outcomes of these allegations.

### *Evidence Supported Command Action*

In 1,845 cases, commanders had sufficient evidence and the legal authority to support some form of disciplinary action for an alleged sexual assault offense or other misconduct (Figure 9, Point S). When a subject in an investigation receives more than one disposition, DoD reports only the most serious disciplinary action. The possible actions, listed in descending order of severity, are court-martial charges preferred, nonjudicial punishment, administrative discharge, and other adverse administrative action.

The following outlines the command actions taken in the 1,211 cases for which it was determined a sexual assault offense warranted discipline:

- 55 percent (N=668) of cases were associated with court-martial charges preferred (initiated).
- 22 percent (N=267) of cases entered proceedings for nonjudicial punishment under Article 15 of the UCMJ.
- 23 percent (N=276) of cases received an administrative discharge or other adverse administrative action.

In 634 cases, evidence supported command action for other misconduct discovered during the sexual assault investigation (e.g., making a false official statement, adultery, underage drinking, or other crimes under the UCMJ), but not a sexual assault charge. Command actions for these cases follow below:

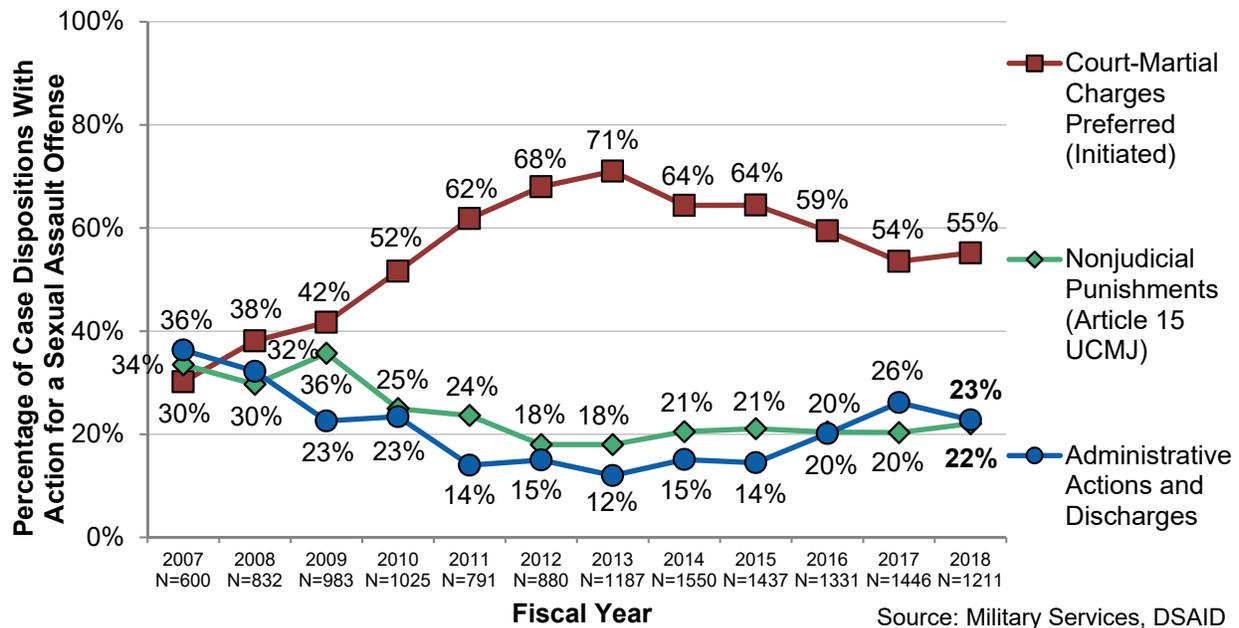
- 11 percent (N=72) of cases were associated with court-martial charges preferred.
- 53 percent (N=339) of cases entered proceedings for nonjudicial punishment.
- 35 percent (N=223) of cases received an administrative discharge or other adverse administrative action.<sup>10</sup>

### **Military Justice**

The information in this section describes the process that follows a military subject's commander having sufficient evidence to take disciplinary action (Figure 11). Each action taken is based on the evidence identified during a thorough investigation. In addition, since June 2012, initial disposition decisions for the most serious sexual assault crimes have been withheld to the O-6 level (Colonel or Navy Captain), who is also at least a Special Court-Martial Convening Authority (SPCMA). This allows more senior officers to review and decide which initial action should be taken in these cases.

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<sup>10</sup> Percentages do not sum to 100 percent due to rounding.



**Figure 11. Breakdown of Disciplinary Actions Taken for Sexual Assault Offenses, FY07 – FY18**

**Note:** Percentages are of cases found to warrant disciplinary action for a sexual assault offense only. This figure does not include other misconduct (false official statement, adultery, etc.). Percentages listed for some years do not sum to 100 percent due to rounding.

### Court-Martial for a Sexual Assault Offense

As noted previously, 668 cases involved court-martial charges preferred. Figure 12 illustrates what happened to these cases after their commanders preferred court-martial charges. Of the 668 cases with a referral of court-martial charges for at least one sexual assault charge in FY18, the Military Services completed 482 court-martial outcomes by the end of the FY.

Of the 307 cases that proceeded to trial, 203 (66 percent) resulted in a conviction of at least one charge at court-martial. That conviction could have been for a sexual assault offense or for any other misconduct charged. Most convicted Service members received at least four kinds of punishment: confinement, reduction in rank, fines or forfeitures, and a discharge (enlisted) or dismissal (officers) from service. In FY18, 108 subjects of a sexual assault offense were required to register as a sex offender by law. According to the UCMJ, Service members convicted of a sexual assault who do not receive a punitive discharge at court-martial must receive an administrative discharge. In FY18, the Military Services processed 28 convicted subjects that did not receive a punitive discharge or dismissal for administrative separation from Military Service.

**What percentage of cases associated with a charge and trial for sexual assault offenses received a conviction in FY18 and what punishment did they receive?**

66% of cases that went to trial for a sexual assault offense resulted in a conviction of at least one charge at court-martial. The majority of cases with a conviction resulted in the following punishments: confinement, reduction in rank, punitive discharge or dismissal, and fines or forfeitures.

Court-martial charges in 85 cases were dismissed; however, commanders used evidence gathered during the sexual assault investigations to impose nonjudicial punishment for other misconduct in 12 of the 85 cases. The punishment may have been for any kind of misconduct for which there was evidence. Five subjects who received nonjudicial punishment for other misconduct after court-martial charges were subsequently discharged from military service.

DoD approved 89 cases for a resignation or discharge in lieu of court-martial (RILO/DILO) and 1 case was approved for cadet/midshipman disenrollment in lieu of court-martial. In FY18, all DILO cases involving enlisted members received a separation Under Other Than Honorable Conditions (UOTHC), the most serious administrative characterization of discharge possible. The UOTHC discharge characterization is recorded on a Service member's DD Form 214, Record of Military Service, and significantly limits separation and post-service benefits from DoD and the Department of Veterans Affairs.

DoD grants requests for RILO/DILO in certain circumstances, occurring only after court-martial charges are preferred against the accused. For such an action to occur, the accused must initiate the process. Requests for a RILO/DILO must include:

- A statement of understanding of both the offense(s) charged and the consequences of administrative separation;
- An acknowledgement that any separation could possibly have a negative characterization;
- An acknowledgement that the accused is guilty of an offense for which a punitive discharge is authorized or a summary of the evidence supporting the guilt of the accused.

These statements are not admissible in court-martial should the request ultimately be disapproved. DILOs involving enlisted personnel are usually approved at the SPCMA level. The Secretary of the Military Department approves RILOs. Figure 12 presents the case outcomes for which court-martial charges were preferred and Figure 13 shows the outcomes by the type of crime charged (i.e., penetrating versus sexual contact crimes).

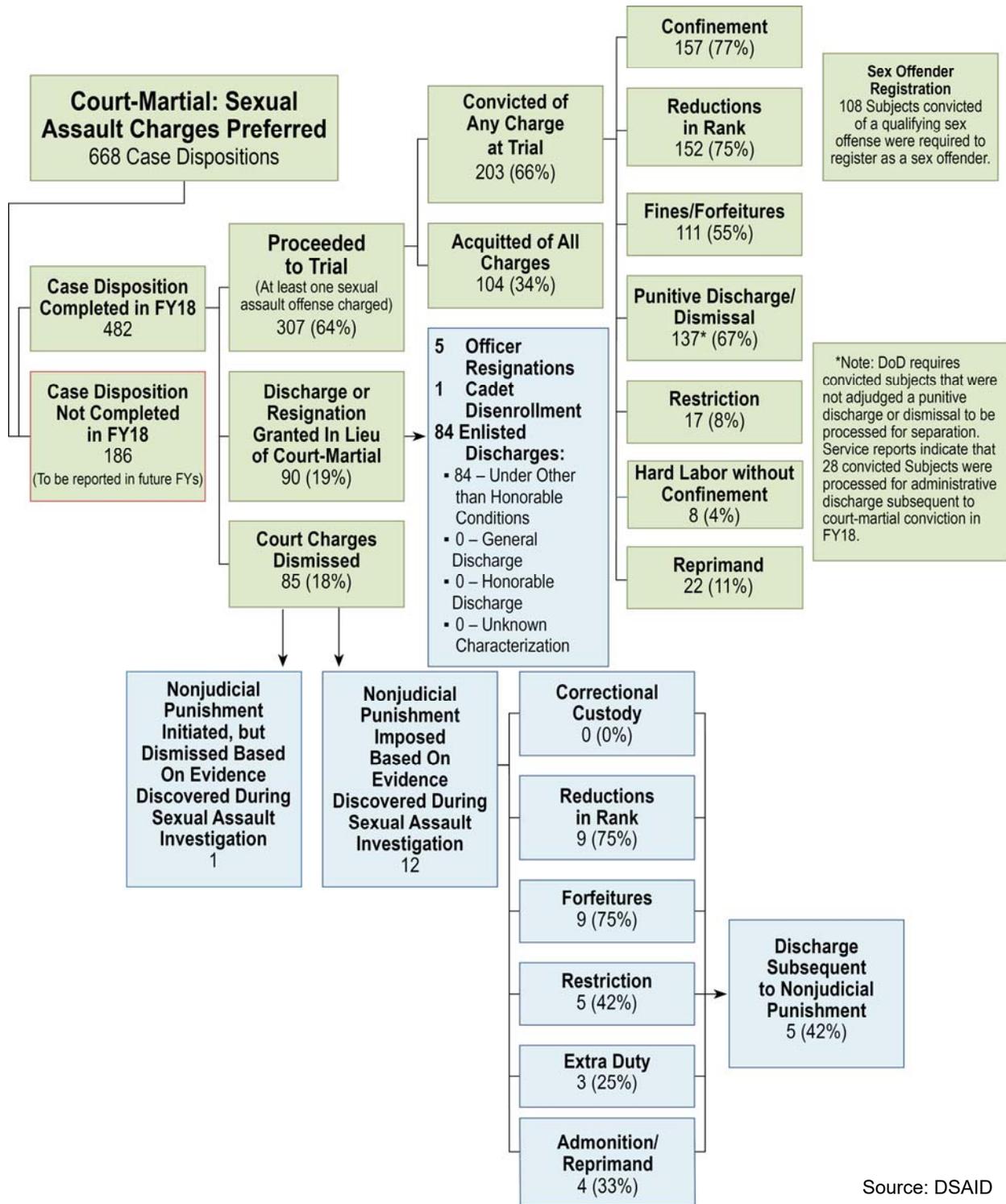
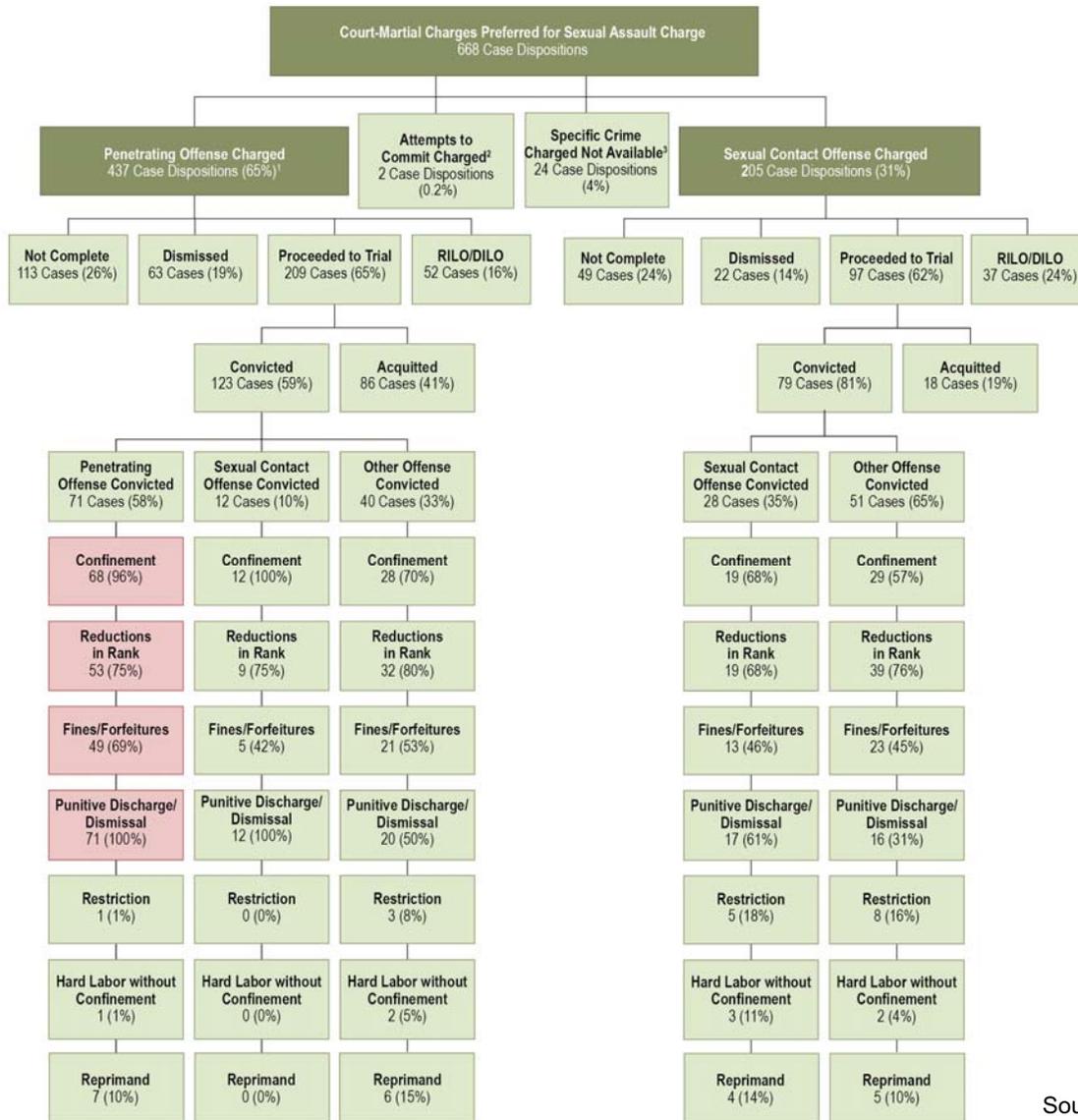


Figure 12. Dispositions of Cases with Sexual Assault Court-Martial Charges Preferred, FY18

Source: DSAID



Source: DSAID

**Figure 13. Dispositions of Cases with Sexual Assault Court-Martial Charges Preferred by Crime Charged, FY18**

**Notes:**

1. Percentages for some categories do not sum to 100 percent due to rounding. Punishments do not sum to 100 percent because subjects can receive multiple punishments.
2. One allegation for an attempt to commit a sexual assault was charged, proceeded to trial, and convicted at court-martial. The other allegation for an attempt to commit a sexual assault resulted in a resignation/discharge in lieu of court-martial.
3. In FY18, 24 cases were preferred for court-martial, but the crime charged data was incomplete. These cases are pending and will be reported out next FY.

## Nonjudicial Punishment

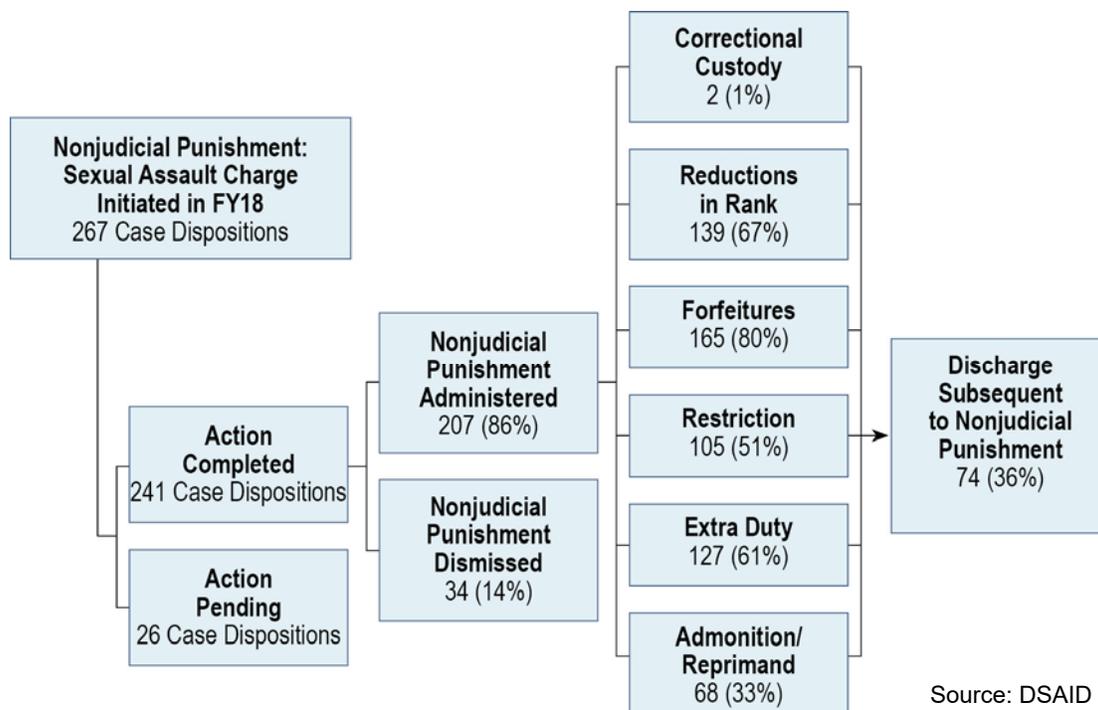
Commanders administer nonjudicial punishments in accordance with Article 15 of the UCMJ, which empowers commanding officers to impose penalties on Service members when there is sufficient evidence of what the law considers to be a relatively minor offense under the UCMJ. Nonjudicial punishment allows commanders to address some types of sexual assault and other misconduct by Service members that may not warrant prosecution in a military or civilian court. Some of the corrective actions within a commander's purview to administer include demotions, forfeitures, and restrictions on liberty. Nonjudicial punishments may support a rationale for administratively discharging military subjects with a less than honorable discharge. The Service member may demand trial by court-martial instead of accepting nonjudicial punishment by the commander, unless the subject is attached to or embarked on a vessel.

***Do military commanders use nonjudicial punishment as their primary means of discipline for sexual assault crimes?***

No. Only 22% of cases warranting disciplinary action for a sexual assault crime received nonjudicial punishment in FY18 as the most serious disciplinary action. Most cases (55%) had court-martial charges preferred as the most serious disciplinary action.

Of the 1,211 cases dispositions that were associated with disciplinary actions on a sexual assault offense, 267 cases were addressed with nonjudicial punishment. Figure 14 displays the outcomes of nonjudicial punishment actions taken against subjects on a sexual assault charge in FY18. In FY18, 86 percent of the 207 cases with completed nonjudicial punishment proceedings were associated with guilty verdicts under the authority of Article 15 in the UCMJ. Nearly all the administered nonjudicial punishments were for sexual contact offenses. Most cases with a nonjudicial punishment received the following punishments: a forfeiture of pay, reduction in rank, and/or extra duty. Available Military Service data indicated that for 74 cases the nonjudicial punishment served as grounds for a subsequent administrative discharge. Characterizations of the 74 discharges are outlined below.

Honorable	5 Cases
General	33 Cases
Under Other Than Honorable Conditions	24 Cases
Uncharacterized	12 Cases
<b>Total</b>	<b>74 Cases</b>



**Figure 14. Dispositions of Cases Receiving Nonjudicial Punishment, FY18**

**Notes:** Punishments do not sum to 100 percent since subjects can receive multiple punishments.

#### *Administrative Discharges and Adverse Administrative Actions*

A legal review of evidence sometimes indicates that the court-martial process or nonjudicial punishments are not appropriate means to address allegations of misconduct against the accused. However, commanders have other means at their disposal to hold alleged offenders appropriately accountable. Commanders may use an administrative discharge to address an individual’s misconduct, lack of discipline, or poor suitability for continued military service. There are three characterizations of administrative discharges: Honorable, General, and UOTHC. General and UOTHC discharges may limit those discharged from receiving full entitlements and benefits from both DoD and the Department of Veterans Affairs. In FY18, 118 cases in sexual assault investigations were associated with an administrative discharge. Characterizations of the discharges are outlined below.

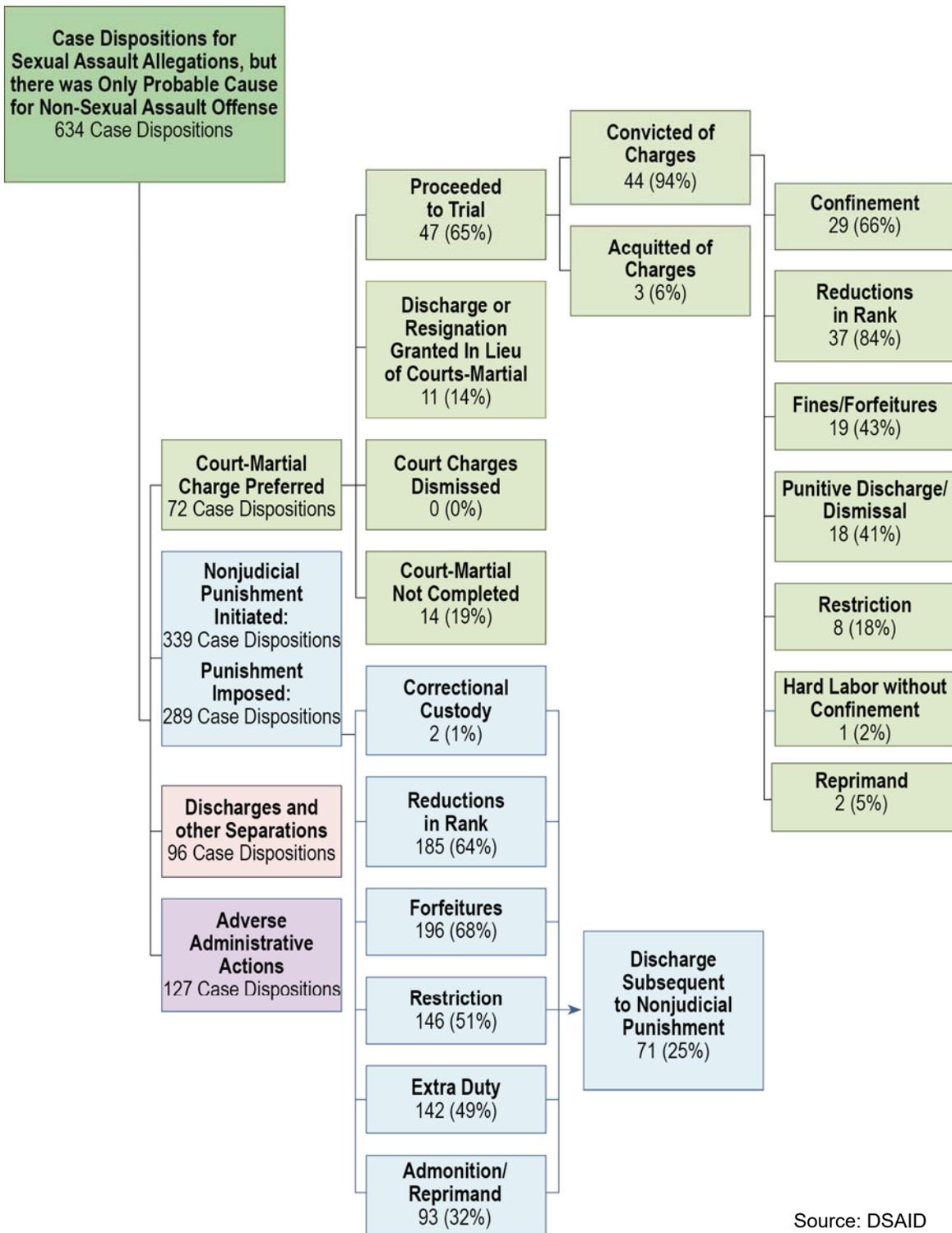
Honorable	0 Cases
General	36 Cases
UOTHC	48 Cases
Uncharacterized	24 Cases
Pending	10 Cases
<b>Total</b>	<b>118 Cases</b>

In FY18, commanders took adverse administrative actions in 158 cases that were investigated for a sexual assault offense. Commanders typically use adverse administrative actions when available evidence does not support a more severe disciplinary action. Adverse administrative actions can have a serious impact on a Service member’s military career, have no equivalent form of punishment in the civilian sector, and may consist of Letters of Reprimand, Letters of Admonishment, Letters of Counseling, or discharge. These actions may also include, but are

not limited to: denial of re-enlistment, cancellation of a promotion, and cancellation of new or special duty orders.

*Probable Cause Only for a Non-Sexual Assault Offense*

Sometimes the sexual assault investigations conducted by MCIOs do not find sufficient evidence to support disciplinary action against the subject on a sexual assault charge but do uncover other forms of chargeable misconduct. In FY18, commanders took action in 634 cases that MCIOs originally investigated for sexual assault allegations, but for which evidence only supported action on non-sexual assault misconduct, such as making a false official statement, adultery, assault, or other crimes (Figure 15).



Source: DSAID

Figure 15. Cases with Probable Cause for Non-Sexual Assault Offenses, FY18

## Demographics of Victims and Subjects in Completed Investigations

DoD draws demographic information from the 4,627 investigations of sexual assault completed in FY18. These investigations involved 5,053 victims and 4,830 subjects or individuals alleged to be perpetrators in an investigation.<sup>11</sup> Table 5 displays the sex of victims and subjects in completed investigations of Unrestricted Reports in FY18. Most victims in completed investigations are female (82 percent) and the majority of alleged subjects are male (76 percent).

**Table 5. Sex of Victims and Alleged Subjects in Completed Investigations of Unrestricted Reports, FY18**

	Victims		Subjects	
	Count	Percent	Count	Percent
Male	905	18%	3,682	76%
Female	4,143	82%	188	4%
Sex Unknown/Data Not Available	5	<1%	960	20%
<b>Total</b>	<b>5,053</b>	<b>100%</b>	<b>4,830</b>	<b>100%</b>

Table 6 shows victim and alleged subject ages at the time of incident for completed investigations of Unrestricted Reports. The majority of victims are between the ages of 16 and 24 (68 percent) and the majority of alleged subjects are between the ages of 20 and 34 (58 percent).

**Table 6. Age of Victims and Alleged Subjects in Completed Investigations of Unrestricted Reports, FY18**

	Victims		Subjects	
	Count	Percent	Count	Percent
0-15	67	1%	9	<1%
16-19	1,263	25%	367	8%
20-24	2,157	43%	1,601	33%
25-34	956	19%	1,194	25%
35-49	205	4%	480	10%
50 and older	91	2%	226	5%
Age Unknown/Data Not Available	314	6%	954	20%
<b>Total</b>	<b>5,053</b>	<b>100%</b>	<b>4,831</b>	<b>100%</b>

<sup>11</sup> There were only 4,709 subjects with reportable information (i.e., offense met the elements of proof for sexual assault and fell within MCIOs legal authority). However, 121 additional individuals alleged to be perpetrators in an investigation are included in these demographic data. These 121 alleged subjects identified in an investigation were either outside the purview of the MCIO or the MCIO found no sexual assault crime occurred.

As shown in Table 7, most victims in completed investigations are of E1-E4 grades and most alleged subjects are of E1-E4 grades.

**Table 7. Grade/Status of Victims and Alleged Subjects in Completed Investigations of Unrestricted Reports, FY18**

	Victims		Subjects	
	Count	Percent	Count	Percent
E1-E4	3,321	66%	2,067	43%
E5-E9	598	12%	1,171	24%
WO1-WO5	5	<1%	22	<1%
O1-O3	169	3%	139	3%
O4-O10	29	1%	66	1%
Cadet/Midshipman/Prep School Student	40	1%	31	1%
U.S. Civilian	835	17%	172	4%
Foreign National/Foreign Military	47	1%	22	<1%
Grade or Status Unknown/Data Unavailable	9	<1%	1,142	24%
<b>Total</b>	<b>5,053</b>	<b>100%</b>	<b>4,832</b>	<b>99%</b>

**Notes:**

1. Category percentages may not sum to 100 percent due to rounding to the nearest whole point.
2. The category "U.S. Civilian" includes DoD contractors, DoD civilians, and other U.S. government civilians.

## Restricted Reports of Sexual Assault

Since Restricted Reports are confidential, protected communications, as defined in DoD policy, SAPR personnel collect limited data about the victim and the sexual assault allegation. As with Unrestricted Reports, victims can make Restricted Reports for incidents at any point in time, including prior to military service. In FY18, there were 2,366 initial Restricted Reports of sexual assault. Of the 2,366 reports, 548 (23 percent) converted to Unrestricted Reports.<sup>12</sup> At the close of FY18, 1,818 reports remained Restricted (Figure 16).<sup>13</sup>

**How many Restricted Reports convert to Unrestricted each FY?**  
 In FY18, about a quarter of victims converted to an Unrestricted Report from a Restricted Report, which is a roughly the same conversion rate observed in FY17.

This year, 328 Service members made a Restricted Report for an incident that occurred prior to entering military service, representing approximately 18 percent of the 1,818 remaining Restricted Reports of sexual assault. Of these 328 Service members, 222 indicated that the incident occurred prior to age 18, and 106 indicated that the incident occurred after age 18.

<sup>12</sup> DoD pulls and analyzes data from DSAID six weeks after the end of each FY to allow sufficient time for data validation. DSAID is a "live" database, meaning that its records change daily to reflect case status. During this six-week period, 44 additional Restricted Reports converted to Unrestricted. After a report converts from Restricted to Unrestricted, all data associated with the report is then counted in the Unrestricted Report category. These 44 reports that were made during the FY, converted to Unrestricted in the six-week period after the end of the FY, and are included with the 548 reports that converted from Restricted to Unrestricted. This has been DoD's practice since moving to DSAID in 2014.

<sup>13</sup> The 548 Restricted reports that converted to Unrestricted Reports are included in the total 5,805 Unrestricted Reports cited in the above section.

Additionally, conversions of Restricted Reports to Unrestricted Reports has steadily increased since FY13, with about a quarter of people who made a Restricted Report subsequently converting it an Unrestricted Report.

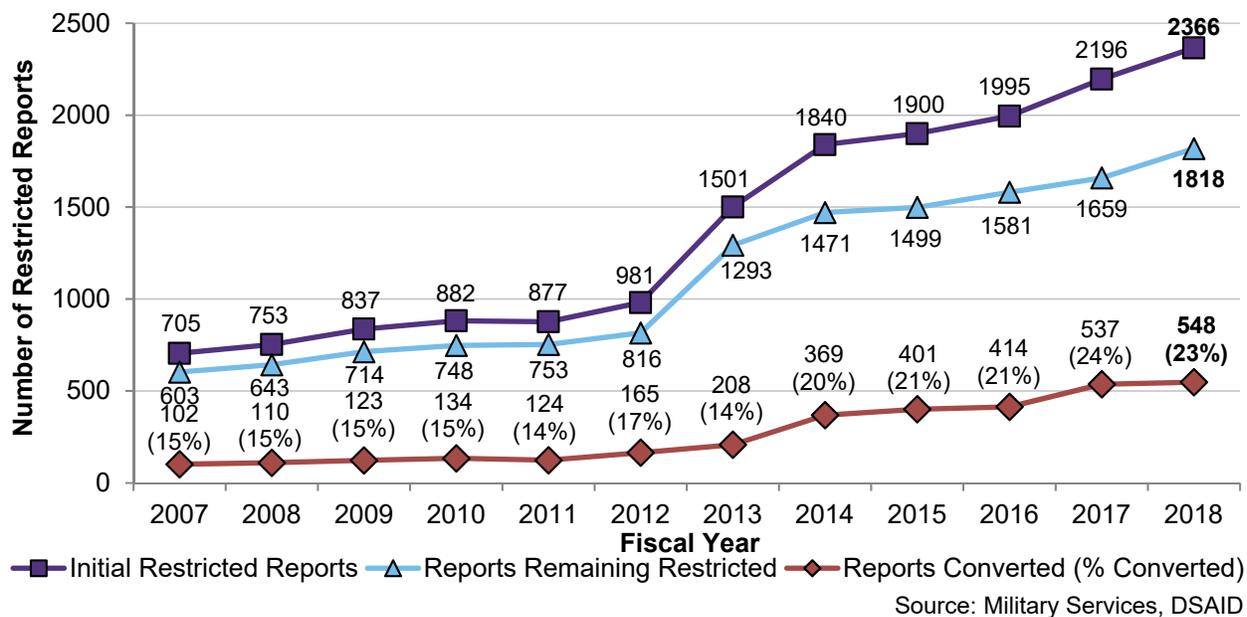


Figure 16. Restricted Reports Received and Converted, FY07 – FY18

### Demographics of Victims in Restricted Reports

Tables 8 through Table 10 show that victims who filed a Restricted Report were primarily female, 24 or younger, and junior enlisted grade (i.e., E1-E4).

Table 8. Sex of Those Who Made Restricted Reports, FY18

	Count	Percent
Male	366	20%
Female	1,452	80%
Data Not Available	0	0%
<b>Total</b>	<b>1,818</b>	<b>100%</b>

**Table 9. Age of Those in Restricted Reports at Time of Incident, FY18**

	Count	Percent
0-15	150	8%
16-19	434	24%
20-24	783	43%
25-34	360	20%
35-49	64	4%
50 and Older	3	<1%
Data Not Available	24	1%
<b>Total</b>	<b>1,818</b>	<b>100%</b>

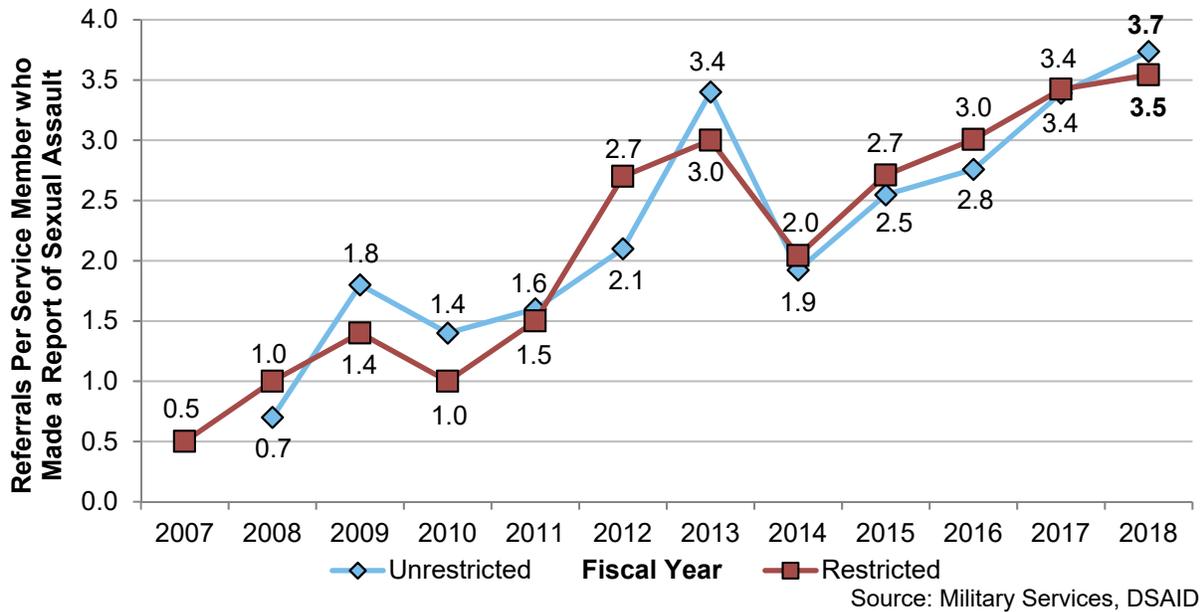
**Table 10. Grade or Status of Those in Restricted Reports at Time of Report, FY18**

	Count	Percent
E1-E4	1,253	69%
E5-E9	341	19%
WO1-WO5	10	<1%
O1-O3	107	6%
O4-O10	29	2%
Cadet/Midshipman/Prep School Student	38	2%
Non-Service Member	40	2%
Data Not Available	0	0%
<b>Total</b>	<b>1,818</b>	<b>100%</b>

**Note:** Categories may not sum to 100 percent due to rounding to the nearest whole point.

### Service Referral Information

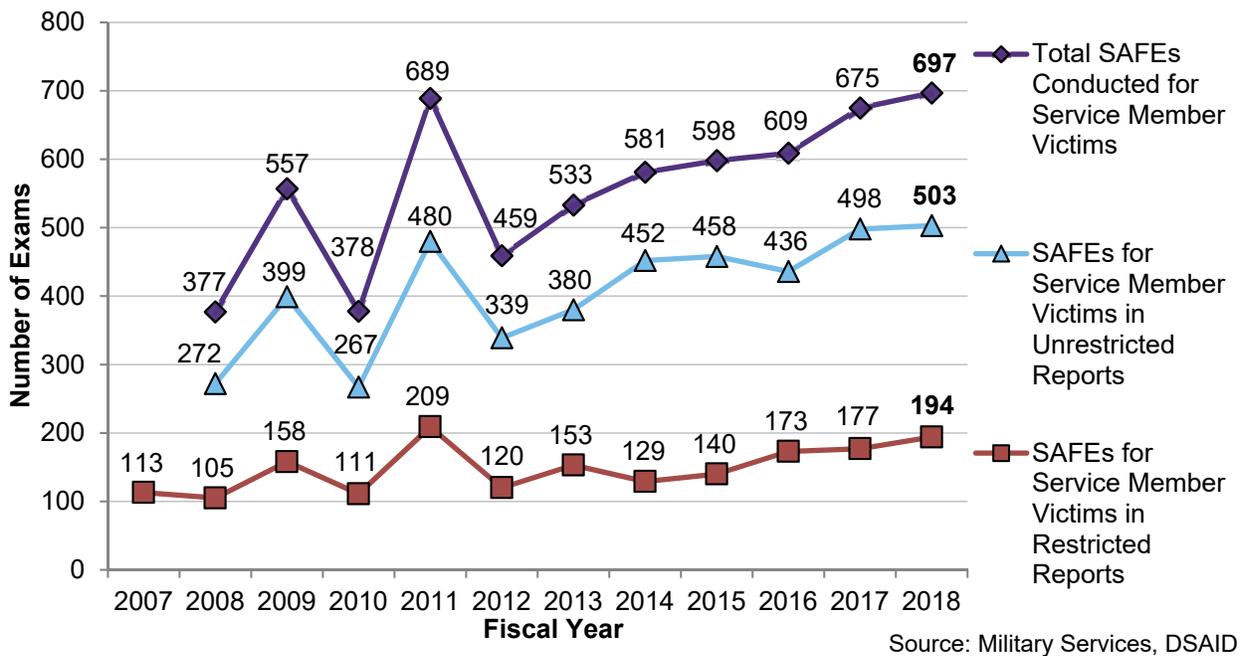
SARCs and SAPR VAs are responsible for helping victims access medical treatment, counseling, legal advice, and other support services. SARCs and SAPR VAs can refer victims to both military and civilian resources for these services. A referral for services can happen at any time while the victim is receiving assistance from a SARC or SAPR VA and may happen several times throughout the military justice process. This year, SARCs and SAPR VAs made an average of 3.7 service referrals per Service member victim submitting an Unrestricted Report and an average of 3.5 service referrals per Service member victim submitting a Restricted Report. Figure 17 shows the average number of referrals per Service member victim in sexual assault reports from FY07 to FY18.



**Figure 17. Average Number of Service Referrals per Service Member who Reported Sexual Assault, FY07 – FY18**

**Note:** DoD did not direct the Services to collect service referral data for Unrestricted Reports until FY08.

Once a Service member reports a sexual assault, they are asked whether they would like to receive a Sexual Assault Forensic Examinations (SAFE). The Military Services reported that there were 697 SAFEs conducted for Service members who reported a sexual assault during FY18 (Figure 18). The decision to undergo a SAFE belongs to the victim.



**Figure 18. SAFEs involving Service Member Victims, FY07 – FY18**

**Note:** DoD did not direct the Services to collect these data on SAFEs for Unrestricted Reports until FY08.

## Expedited Transfers

Since FY12, DoD has allowed Service members who submitted an Unrestricted Report of sexual assault to request an expedited transfer from their assigned units (Table 11). This may involve a move to another duty location on the same installation or relocating to a new installation entirely. Service members can request a transfer from their unit commander, who has 72 hours to act on the request. Should a unit commander decline the request, victims may appeal the decision to the first General Officer/Flag Officer (GO/FO) in their commander's chain of command. The GO/FO then has 72 hours to review the request and provide a response to the victim. Table 11 shows the number of expedited transfers and denials since FY12. Expedited transfers requested and approved have been steadily increasing since FY12.

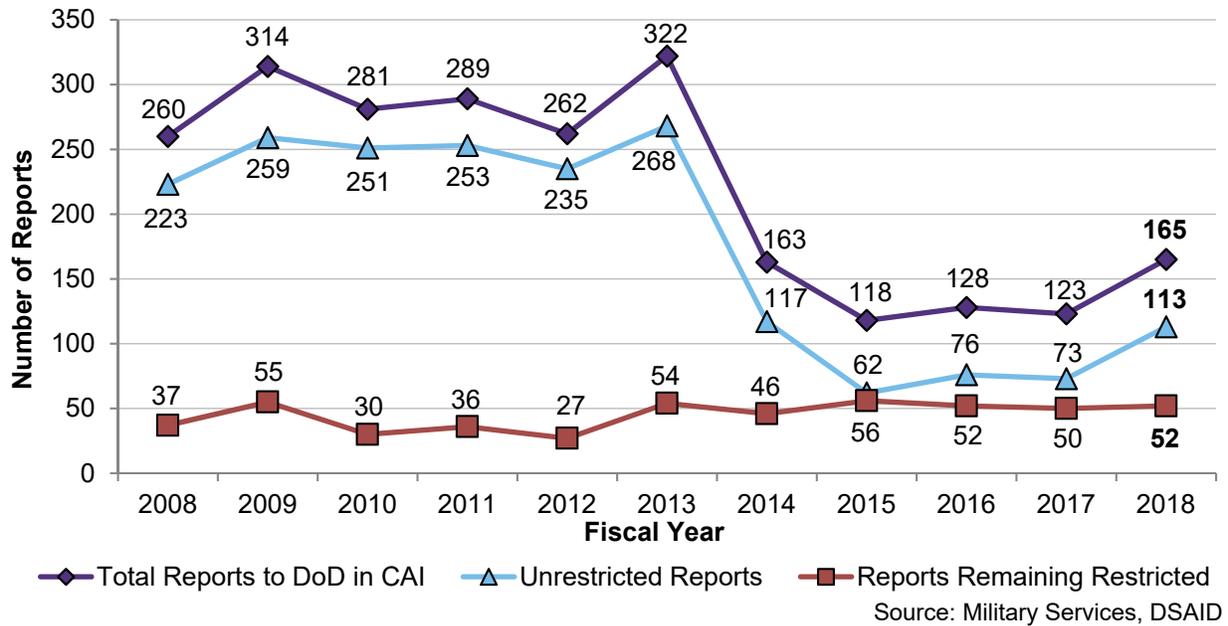
**Table 11. Expedited Transfers and Denials, FY12 – FY18**

	FY12	FY13	FY14	FY15	FY16	FY17	FY18
Number of victims requesting a change in unit/duty assignment (cross-installation transfer)	57	99	44	71	62	74	67
Number denied	2	3	0	2	3	5	2
Number of victims requesting a change in installation (permanent change of station)	161	480	615	663	684	760	835
Number denied	0	11	15	12	18	30	30
<b>Total approved</b>	<b>216</b>	<b>565</b>	<b>644</b>	<b>720</b>	<b>725</b>	<b>799</b>	<b>870</b>

## Reports of Sexual Assault in Combat Areas of Interest

Arduous conditions in combat areas of interest (CAI) make sexual assault response and data collection difficult. However, SARCs, SAPR VAs, and other SAPR personnel are assigned to all these areas. SAPR personnel are diligent in providing requested services and treatment to victims. The data reported below are included in the total number of Unrestricted and Restricted Reports described in previous sections.

Figure 19 depicts historical trends of Unrestricted and Restricted Reporting in CAIs from FY08 to FY18. There were 165 reports of sexual assault in CAIs in FY18, an increase from FY17 (123 reports). It should be noted that the data below document where a sexual assault was reported, which does not necessarily indicate where the sexual assault was alleged to have occurred.



**Figure 19. Reports of Sexual Assault in Combat Areas of Interest, FY08 – FY18**

There were 113 Unrestricted Reports in CAIs during FY18, which drove the overall increase of reports received in CAIs. Of these 113, 10 reports were initially restricted and converted to Unrestricted Reports during the FY. Table 12 below lists the number of Unrestricted and Restricted Reports for each CAI, and shows that in FY18, the majority of reports were received in Afghanistan, Kuwait, Bahrain, Qatar, and Turkey.

**Table 12. Unrestricted and Restricted Reports by Combat Area of Interest, FY18**

CAI	Total Reports	Unrestricted Reports	Restricted Reports
Afghanistan	35	27	8
Kuwait	20	16	4
Bahrain	19	10	9
Qatar	19	8	11
Turkey	19	13	6
Iraq	15	9	6
Jordan	15	12	3
Djibouti	10	8	2
UAE	8	5	3
Syria	2	2	0
Kosovo	1	1	0

**Note:** In FY18, there were 0 reports of sexual assault in CAIs Lebanon, Pakistan, Saudi Arabia, Somalia, and Yemen.

### Demographics of Victims and Alleged Subjects in Unrestricted Reports in CAIs

DoD draws demographic information about the Unrestricted Reports made in CAIs from the 93 investigations closed during FY18. These 93 investigations involved 97 victims and 94 alleged subjects.

#### *Report Demographics for Completed Investigations*

Similar to those who file Unrestricted Reports outside of CAIs, those filing Unrestricted Reports in CAIs are mostly female (86 percent) and junior enlisted grade (54 percent). However, people who submitted Unrestricted Reports in CAIs tended to be slightly older than those submitting Unrestricted Reports in general; about half (49 percent) of victims in CAIs were 25 and over compared to a quarter of those in all Unrestricted Reports.

#### *Alleged Subjects in Completed Investigations*

The demographics of alleged subjects in Unrestricted Reports submitted in CAIs are similar to the demographics of alleged subjects in all Unrestricted Reports submitted to DoD, in that the majority are male (72 percent), under the age of 35 (47 percent), and in an enlisted grade (53 percent).

### Demographics of Victims and Alleged Subjects in Restricted Reports in CAIs

The 52 victims with reports remaining Restricted in CAIs mirror the demographics of victims in all Restricted Reports made to DoD in that they were mostly female (87 percent). However, victims making Restricted Reports in CAIs tended to be older; 44 percent of victims in CAIs were 25 and over compared to 23 percent of victims in all Restricted Reports. Compared to all victims making a Restricted Report, a smaller share of victims in CAIs are junior enlisted: 40 percent of victims in CAIs are E1-E4, compared to 69 percent of victims in Restricted Reports overall.

## FY18 Retaliation Allegations

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The Military Services and National Guard Bureau (NGB) provided data on allegations of retaliation received in FY18 that were associated with reports of sexual assault and/or complaints of sexual harassment. Information submitted by the Military Services and NGB varies depending on Service/NGB approach (e.g., Department of the Navy only submits data on cases with completed investigations, whereas the Army, Air Force, and NGB provide information on completed and ongoing investigations).

In FY18, DoD requested the Military Services provide two types of data:

- Case Management Group (CMG) Retaliation Allegations: The Military Services and NGB provided data on all retaliation allegations discussed at CMG meetings in FY18 involving victims, witnesses/bystanders, and first responders associated with reports of sexual assault. Victims, witnesses/bystanders, and first responders who believe they have experienced retaliation have the option of requesting their experience be discussed at a CMG.
- Investigations of Alleged Retaliation: DoD Inspector General (IG), the Military Services, and NGB provided data on all FY18 allegations of retaliation investigated and/or handled by Service, NGB or DoD IG, MCIOs, Law Enforcement, and Commander-Directed Inquiries. This data pertains to allegations of retaliation associated with Unrestricted Reports of sexual assault or complaints of sexual harassment.

### CMG Retaliation Data

DoDI 6495.02 “Sexual Assault Prevention and Response Program Procedures” requires the Military Services and NGB to review new and ongoing sexual assault cases each month within their installation CMGs to ensure the appropriate entities are engaged. This process facilitates the provision of services while allowing the CMG better oversight. In FY18, 54 individuals requested their allegation of retaliation be discussed at the CMG. Victims of sexual assault made the majority of retaliation allegations (50 allegations). In addition, 2 witnesses/ bystanders and two first responders had their retaliation allegations discussed at the CMG.

Of the 54 retaliation allegations, 27 alleged reprisal, 16 alleged ostracism and/or cruelty/oppression/maltreatment, 10 alleged a combination of reprisal and other misconduct, and 1 alleged another criminal offense in relation to the report of sexual assault. Almost three quarters (39 allegations) of retaliation reports were made by women. Furthermore, most individuals reporting retaliation indicated that they experienced it from an alleged single male retaliator (18 allegations) or an alleged single female retaliator (13 allegations). In all cases, the alleged retaliator(s) was not the alleged perpetrator of sexual assault (54 allegations).

Table 13 below shows the actions taken for cases discussed at CMGs. A total of 81 total actions were taken in 54 cases. Over a quarter (21 allegations) of all allegations received multiple actions. Common actions included referring the information to command (28 allegations), referring the information to IG (21 allegations), transferring the retaliation reporter at his/her request (6 allegations), informal/verbal counseling of alleged retaliator(s) (5 allegations), and military protective order issued to, or civilian protective order obtained by, the retaliation reporter (4 allegations). Eight cases of perceived retaliation had actions either pending or had no action reported. Of those 8 cases, 5 were pending action, 1 had no action taken due to the reporter leaving military service, and 2 had no action taken for an unspecified reason.

**Table 13. CMG Action Taken to Address Retaliation Allegations, FY18**

	<b>Count</b>	<b>Percent</b>
Information referred to Command	28	35%
Information referred to IG	21	26%
Information referred to MCIO	6	7%
Transfer of retaliation reporter at his/her request	6	7%
Informal/verbal counseling of alleged retaliator(s)	5	6%
Military protective order issued, or civilian protective order obtained by reporter	4	5%
Briefings/trainings for alleged retaliator(s) and/or unit/installation	3	4%
Alleged retaliator(s) later held appropriately accountable following a referral of the allegation by the CMG	3	4%
Unfavorable personnel action, punishment, or administrative action against the retaliation reporter reversed through command intervention	3	4%
Negative treatment of retaliation reporter put to a stop through command intervention	1	1%
New policies implemented by command in unit/installation	1	1%
Information referred to MEO	0	0%
Alleged retaliator(s) moved (transfer, relocation, reassignment, deployment)	0	0%
Safety plan updated for retaliation reporter	0	0%
Other action taken	0	0%
<b>Total actions taken in 54 cases</b>	<b>81</b>	<b>100%</b>

### Data on Investigations of Perceived Retaliation

Persons seeking to report a retaliation allegation have a variety of avenues to do so that are dependent on the type of alleged misconduct. Reprisal allegations must be reported to DoD and Service IGs. Ostracism and maltreatment allegations associated with sexual assault allegations may be investigated by an MCIO or another DoD law enforcement agency or may be referred to unit commanders for investigation and resolution – all contingent on the circumstances and misconduct alleged.

#### *Reports of Perceived Retaliation*

The Military Services and NGB received 108 retaliation reports against 147 alleged retaliators in FY18 associated with sexual assault or sexual harassment reports. Additionally, there were 25 reports, involving 40 alleged retaliators, from prior FYs that had an outcome reported to DoD in FY18, for a total of 133 reports discussed in this section. Table 14 displays the sex of retaliation reporters and Table 15 displays the type of report that was related to the investigation of the alleged retaliation. As with sexual assault, most retaliation reports are filed by women. The majority of retaliation reporters (70 percent) had made an Unrestricted Report of sexual assault. Additionally, as shown in Table 16, nearly all retaliation reports filed come from people who have filed a report of sexual assault or a complaint of sexual harassment (88 percent).

**Table 14. Sex of Retaliation Reporters in Investigations of Perceived Retaliation, FY18**

	<b>Count</b>	<b>Percent</b>
Men	24	18%
Women	108	81%
Unknown/relevant data not available	1	1%
<b>Total</b>	<b>133</b>	<b>100%</b>

**Table 15. Type of Report Related to Investigations of Perceived Retaliation, FY18**

	<b>Count</b>	<b>Percent</b>
Unrestricted Report of sexual assault	93	70%
Suspected of making a report of sexual assault	8	6%
Formal complaint of sexual harassment	16	12%
Informal complaint of sexual harassment	14	11%
Unknown/relevant data not available	2	2%
<b>Total</b>	<b>133</b>	<b>100%</b>

**Table 16. Type of Retaliation Reporter in Investigations of Perceived Retaliation, FY18**

	<b>Count</b>	<b>Percent</b>
Victim of alleged sexual assault or complainant of alleged sexual harassment	117	88%
Witness/bystander of alleged sexual assault or alleged sexual harassment	16	12%
First responder or SAPR personnel	0	0%
<b>Total</b>	<b>133</b>	<b>100%</b>

### *Demographics and Outcomes of Alleged Retaliators*

The analysis that follows focuses on the information and outcomes as provided by the Services of the 187 alleged retaliators in this section. The results largely reflect reprisal allegation outcomes, since the majority of the information originates from DoD and Service IGs, which are tasked with investigating reprisal allegations for DoD. The majority of alleged retaliators were men (70 percent) and 17 percent were the alleged perpetrator of the associated sexual assault or sexual harassment report. Most alleged retaliators were a superior in the chain of command of the reporter (66 percent). This is also seen when looking at the type of retaliation investigated, as most cases involve reprisal as shown in Table 17. Cases of reprisal are referred to DoD IG per policy and outcomes of their investigations are shown in Table 18.

**Table 17. Relationship of the Alleged Retaliator and the Reporter, FY18**

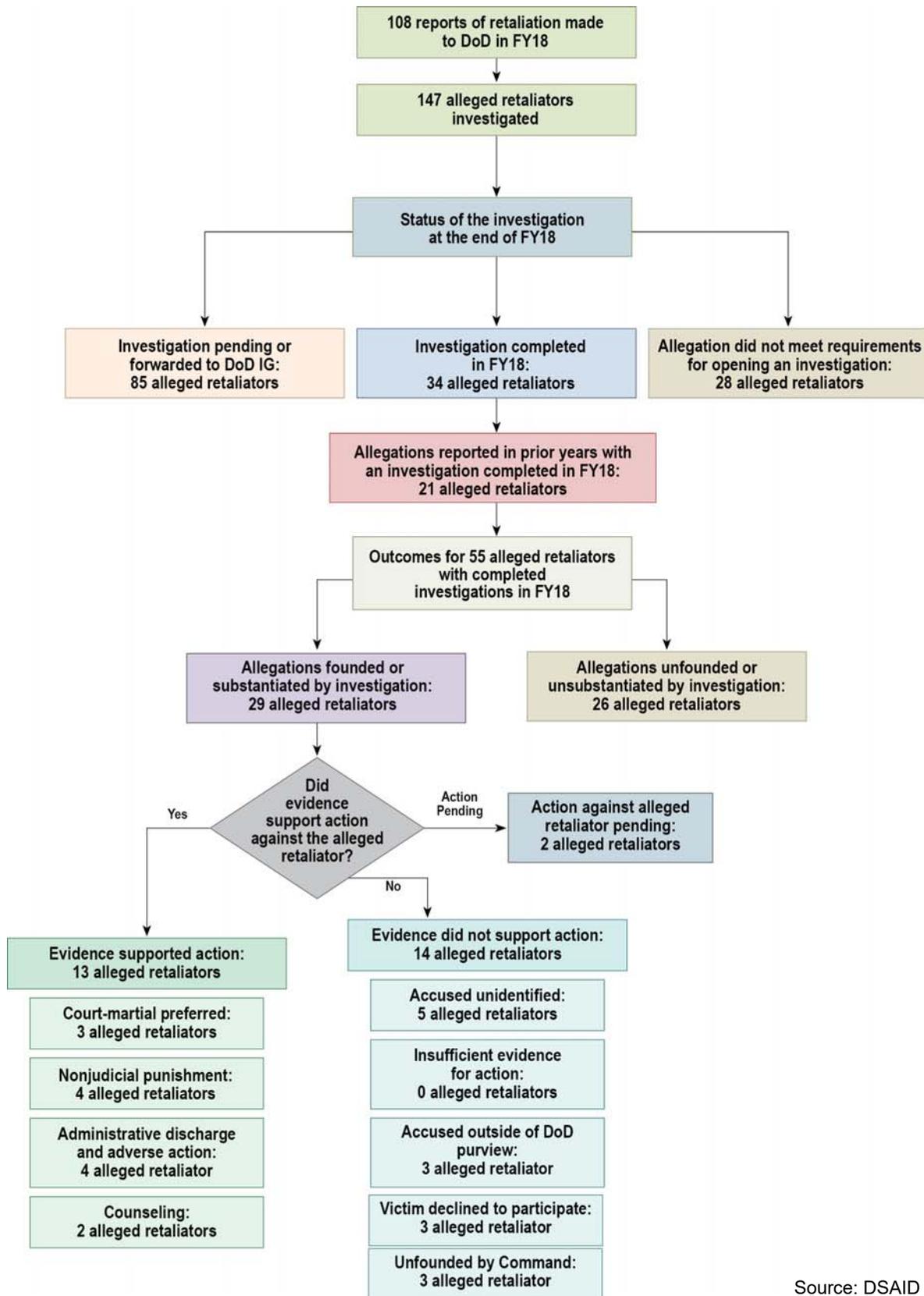
	<b>Subject Count</b>	<b>Percent</b>
Superior in their chain of command	124	66%
Superior, not in their chain of command	6	3%
Junior rank, not in their chain of command	4	2%
Peer, friend, and/or coworker	15	8%
Associated with the alleged perpetrator of the sexual assault or sexual harassment	15	8%
Service provider	3	2%
Unknown/unspecified relationship	20	11%
<b>Total</b>	<b>187</b>	<b>100%</b>

**Table 18. Count of Retaliation Offenses Investigated, FY18**

	<b>Subject Count</b>	<b>Percent</b>
Reprisal	107	57%
Reprisal and other allegations (ostracism, cruelty/oppression/maltreatment, and/or other criminal offenses)	10	5%
Restriction	3	2%
Ostracism	15	8%
Cruelty/oppression/maltreatment	6	3%
Ostracism and other matters	1	1%
Ostracism and cruelty/oppression/maltreatment	3	2%
Other criminal offenses	26	14%
Other	16	9%
<b>Total</b>	<b>187</b>	<b>100%</b>

Figure 20 below presents a review of the status of retaliation investigations and outcomes for the alleged retaliators in those investigations. The Military Services and NGB opened investigations against nearly all of the alleged retaliators. At the time of data collection, the majority of alleged retaliators still had an investigation pending or had their case taken over by DoD IG. Results of these investigations will be reported in future FYs.

There were 34 alleged retaliators with completed investigations from FY18 reports and 21 alleged retaliators from prior year reports that had an investigation completed in FY18, for a total of 55 alleged retaliators in completed investigations. Investigators substantiated or founded charges against 29 of the 55 alleged retaliators in completed investigations. DoD had sufficient evidence to take action against 13 out of 29 alleged retaliators. These actions included court-martial charges preferred (3), nonjudicial punishments (4), administrative discharges and adverse administrative actions (4), and informal/verbal counseling (2). Evidence did not support action against 14 alleged retaliators (due to unknown retaliator, victim declining to participate, alleged retaliator outside of DoD purview, or allegation determined to be unfounded by command). Victims declined to participate in the cases of 3 retaliators. Finally, 2 alleged retaliators had action pending.



Source: DSAID

Figure 20. Reports of Perceived Retaliation Made to DoD, FY18

*Reports received for Reprisal by the Department of Defense Office of the Inspector General (DoD IG)*

DoD IG provides SAPRO with a report of all complaints of reprisal investigated and received by DoD IG. DoD IG can receive reports directly from a reporter and thus the totals will not match with the reports referred to DoD IG in the previous section. DoD IG received 119 complaints of reprisal relating to reporting of a sexual assault in FY18. At the end of the fiscal year they had completed and closed 129 cases of reports from FY18 and previous fiscal years. Table 19 below shows the outcomes of the investigations closed in the FY18, with the majority being dismissed by DoD IG.

**Table 19. Outcomes of DoD IG Investigations, FY18**

	<b>Subject Count</b>	<b>Percent</b>
Dismissed	103	78%
Not Substantiated	17	14%
Substantiated	1	1%
Withdrawn	8	7%
<b>Total Closed</b>	<b>129</b>	<b>100%</b>

DoD IG defines the above outcomes as follows:

- Dismissed are cases closed with investigation, because either DoD OIG lacked jurisdiction, complaint was not filed within the 1-year filing deadline, or complaint analysis determined that there was no prima facie allegation of reprisal or restriction.
- Not substantiated cases were investigated but not proven.
- Substantiated cases were investigated and proven.
- Withdrawn cases are cases where the complainant withdrew their complaint of reprisal or restriction.

**Longitudinal Data Analysis: Investigation and Adjudication Outcomes for Reports Made in Prior Fiscal Years**

In every Annual Report, SAPRO presents data for the FY in which a victim reported a sexual assault; however, an appreciable percentage of investigations and/or disposition decisions for the cases associated with these reports are pending at the end of the FY. DoD continues to track outcomes for previously pending cases in DSAID. SAPRO and the Military Services audited prior years’ data to present a more comprehensive picture of investigation and adjudication outcomes for reports received in FY16. SAPRO does this largely to determine if there are substantive differences in case outcomes when reported longitudinally, as is done in this section, versus reporting the status of all outcomes received at the end of the fiscal year, as presented on pages 13 to 29 of this Appendix.

As explained on page 7, DSAID is a real-time data-gathering tool. Since SAPRO pulled data for this section in January 2019, numbers presented here may differ from data published in the FY16 Annual Report. For example, victims who made a Restricted Report in FY16 may have converted to an Unrestricted Report in subsequent FYs. DSAID counts these converted cases as Unrestricted Reports; thus, the total number of Unrestricted and Restricted reports in a given FY will change as victims convert their reports.

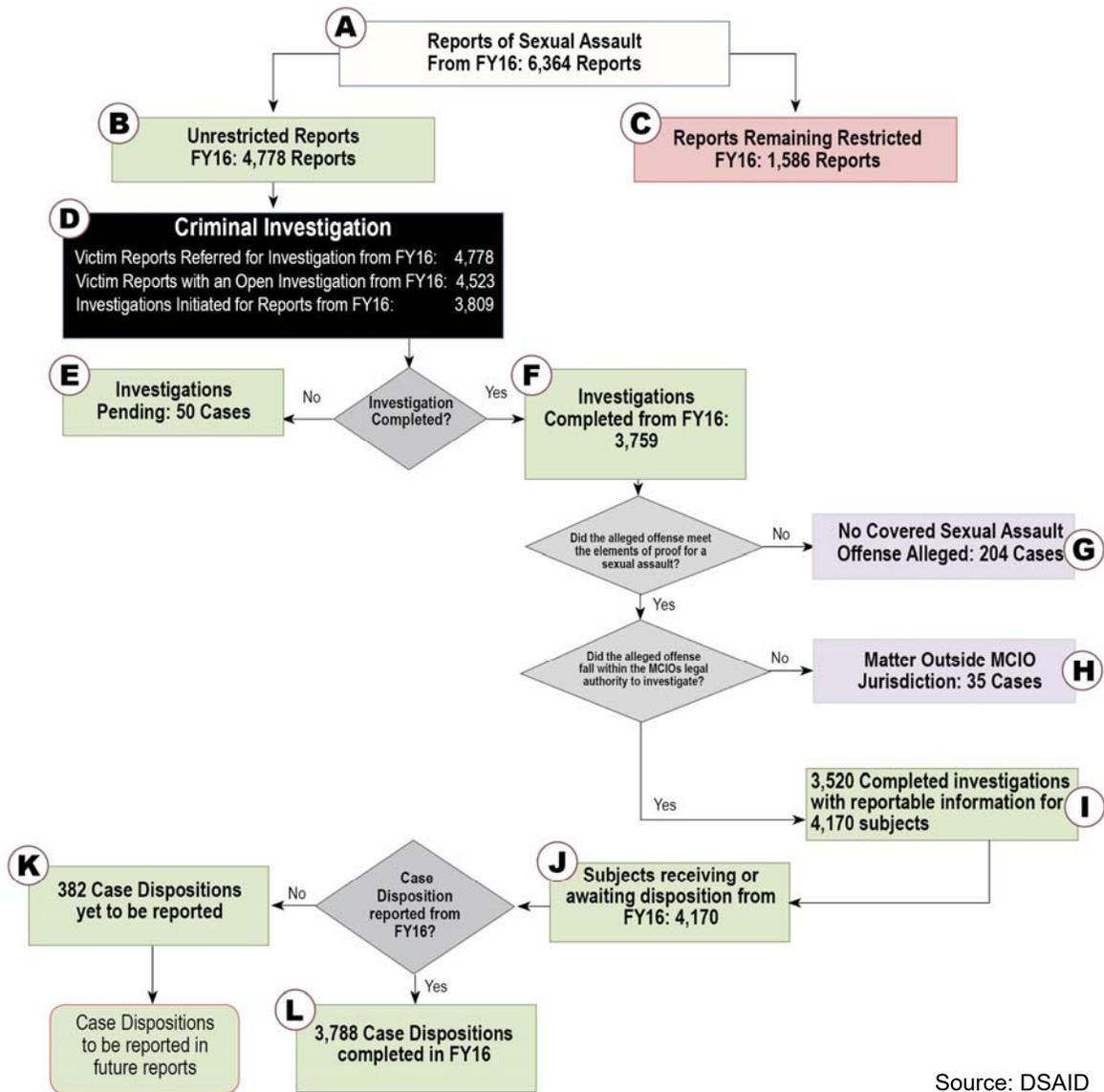
Although the majority of FY16 reports have completed investigations and disposition decisions, some cases remain pending at the time of data retrieval. One reason is that Restricted Reports converted to Unrestricted after FY16 are associated with investigations that opened more recently. Although less likely to occur, some investigations originally opened and closed in FY16 have been re-opened if new evidence becomes available.

As of January 2019, DoD received 6,364 reports of sexual assault with an initial report date made between October 1, 2015 and September 30, 2016 (Figure 21), which comprised of 4,778 Unrestricted Reports and 1,586 Restricted Reports. Of the 4,778 Unrestricted Reports that were referred for investigation, 4,523 reports had an investigation opened.<sup>14</sup> Of those 4,523 reports with investigations opened, there were 3,809 unique investigations (Figure 21, Point D). At the time of the data pull, MCIOs had completed almost all (99 percent) of investigations opened for cases reported in FY16 (Figure 21, Point F). Of these, 239 were outside of DoD authority or were incidents determined not to be a sexual assault. Of the remaining 3,520 completed investigations, 4,170 resulted in subjects with a possible case disposition, as of January 2019.<sup>15</sup> Of the 4,170 possible cases pending disposition from FY16 investigations, 91 percent were completed by the time of this report.

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<sup>14</sup> Some reports may not have had an investigation opened due to the case not rising to the level of an MCIO investigation, the case being outside of UCMJ jurisdiction, or the incident occurring prior to military service. Some investigations will include multiple victims.

<sup>15</sup> Since these data were pulled in the first quarter of FY19, a small number of cases (N=40) have disposition decisions dated in FY19 and will thus be reported in the FY19 Annual Report.

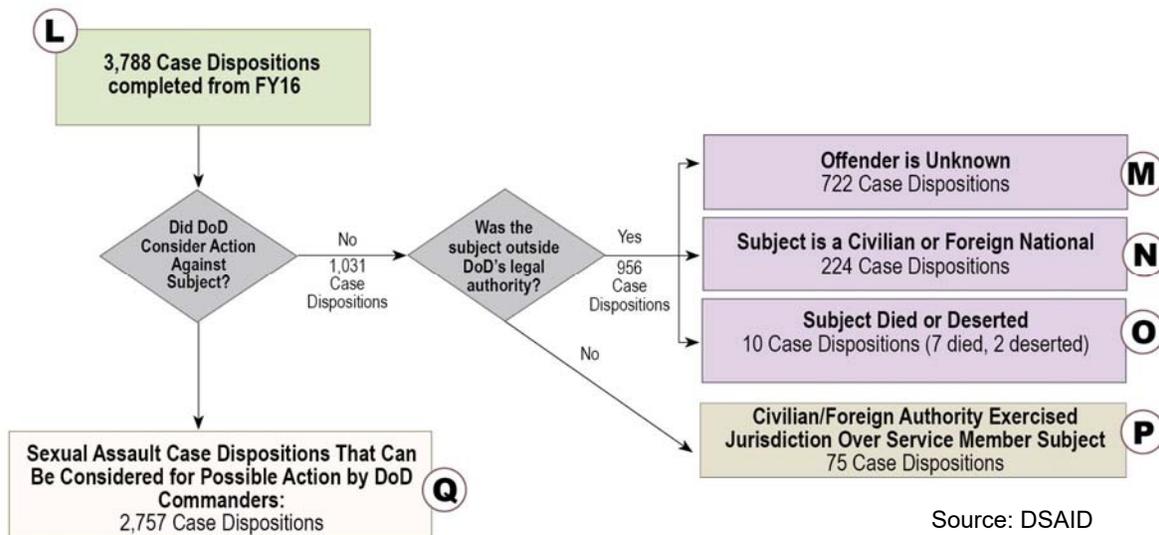


Source: DSAID

**Figure 21. Reports of Sexual Assault, Completed Investigations, and Case Dispositions, FY16**

The 3,788 cases from DoD investigations for which dispositions were reported included Service members, U.S. civilians, foreign nationals, and subjects that could not be identified (Figure 22). Of these, DoD could not consider action in 1,031 cases because:

- 956 cases were outside of DoD’s legal authority (Figure 22, Points M, N, and O). Specifically, MCI O’s could not identify a subject despite a criminal investigation, a subject was a civilian or foreign national not under the military’s jurisdiction, or a subject had died or deserted before DoD could take disciplinary action.
- 75 cases included Service members being prosecuted by a civilian/foreign authority (Figure 22, Point P). While a Service member is always under the legal authority of DoD, sometimes a civilian authority or foreign government will exercise its legal authority over a Service member who is suspected of committing a crime within its authority.



**Figure 22. Cases Outside DoD Legal Authority, FY16**

As explained on page 20, legal factors sometimes prevent DoD from taking disciplinary action against subjects. Commanders could not take disciplinary action in 972 (35 percent) cases due to insufficient evidence of an offense, the victim declining to participate in the military justice process, the statute of limitations expiring, or the victim dying before completion of justice action (Figure 23, Point U). After examining the evidence in each case with a military attorney, commanders declined to take action in 72 cases, because available evidence indicated the allegations in these cases were false or baseless (Figure 23, Point V).

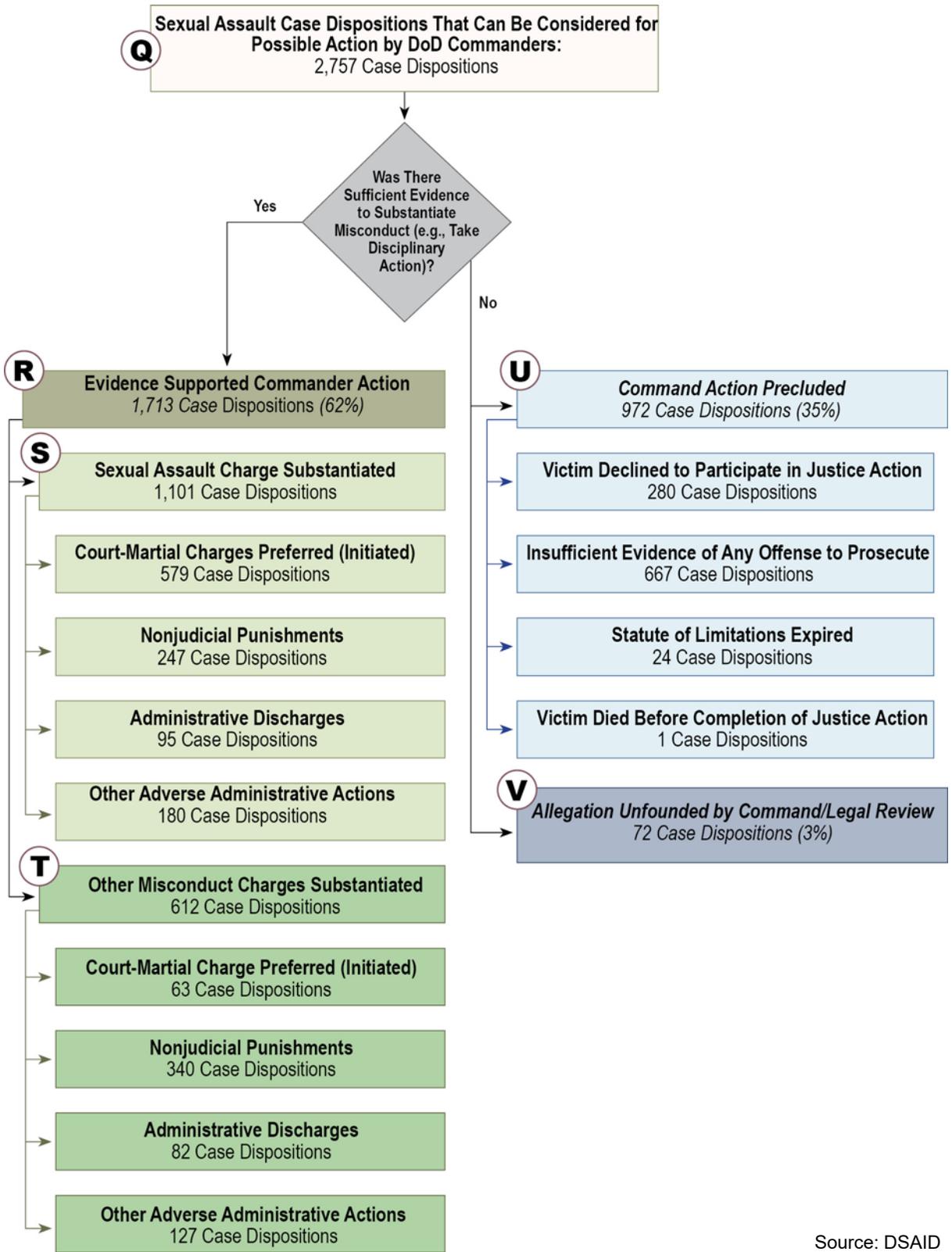
For 1,713 cases (62 percent), commanders had sufficient evidence and the legal authority to support some form of disciplinary action for an alleged sexual assault offense or other misconduct (Figure 23, Point R). When a subject receives more than one disposition in a single case, DoD reports only the most serious disciplinary action. The possible actions, listed in descending order of severity, are preferral of court-martial charges, nonjudicial punishment, administrative discharge, and other adverse administrative action.

The following outlines the command actions taken for the 1,101 cases for which it was determined a sexual assault offense warranted discipline:

- 579 (53 percent) of cases were initiated for court-martial charges preferrals.
- 247 (22 percent) were associated with proceedings for nonjudicial punishment under Article 15 of the UCMJ.
- 275 (25 percent) were associated with a discharge or another adverse administrative action.

For 612 cases, evidence supported command action for other misconduct discovered during the sexual assault investigation (e.g., making a false official statement, adultery, underage drinking, or other crimes under the UCMJ), but not a sexual assault charge. Command actions for these cases follow below:

- 63 (10 percent) of cases were associated with court-martial charges preferred.
- 340 (56 percent) were associated with proceedings for nonjudicial punishment.
- 209 (34 percent) were associated with some form of adverse administrative action or discharge.



Source: DSAID

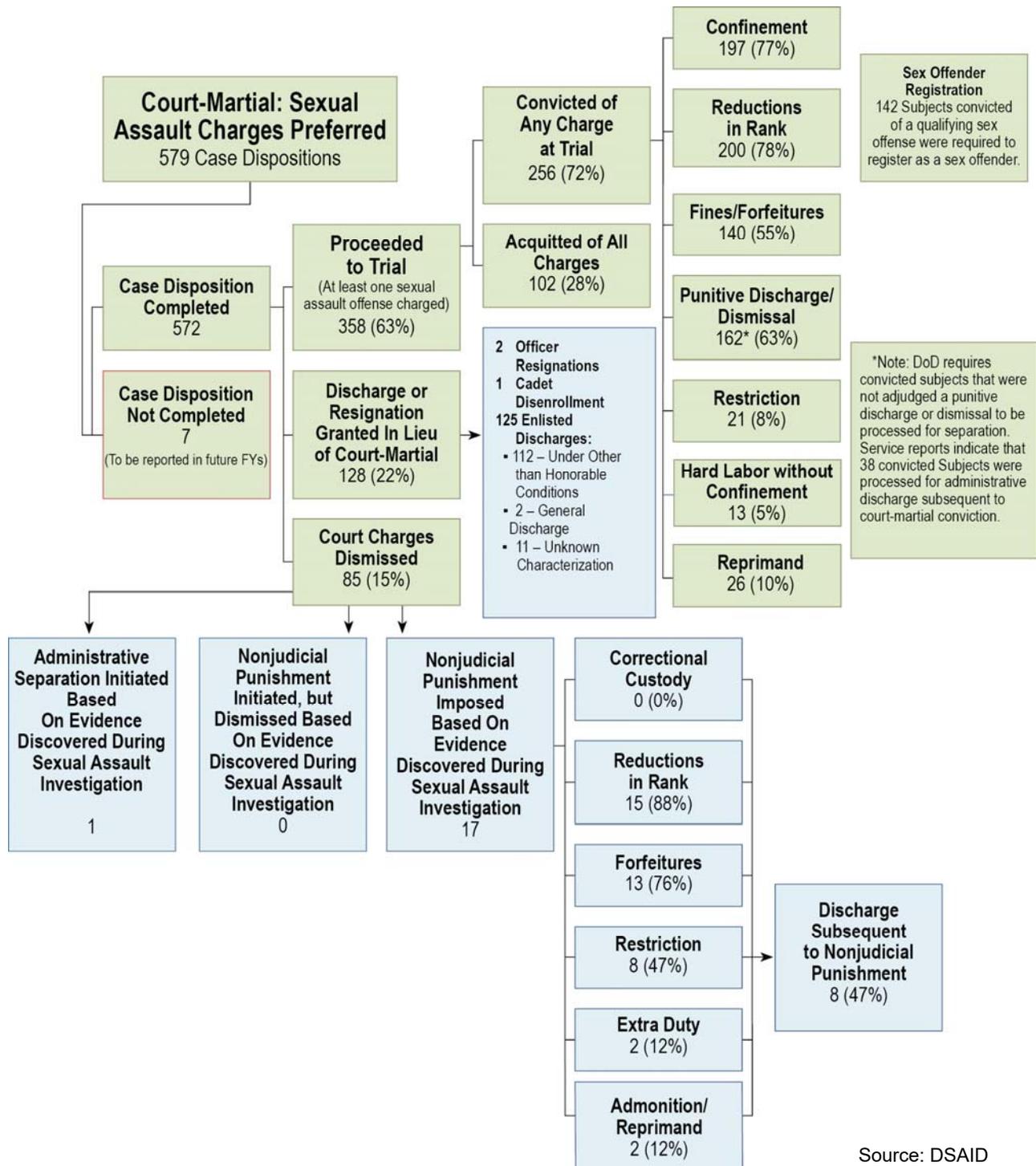
**Figure 23. Dispositions of Cases under DoD Legal Authority, FY16**

As noted previously, 579 cases were associated with court-martial charges preferred. The dispositions and the sentences imposed by courts-martial are for those subjects with at least one sexual assault charge adjudicated at any time for a report made in FY16.

Figure 24 shows that 358 cases proceeded to trial, 72 percent of which were associated with a conviction of at least one charge at court-martial. The Services processed 38 convicted subjects that did not receive a punitive discharge or dismissal for administrative separation from Military Service.

Court-martial charges in 85 cases were dismissed. However, commanders used evidence gathered during the sexual assault investigations to take nonjudicial punishment for other misconduct in 17 cases. The punishment may have been for any kind of misconduct for which there was evidence.

A total of 128 cases resulted in a RILO/DILO. Of those cases, 112 of 125 enlisted members who received a DILO, the enlisted member was separated UOTHC, the most serious characterization of discharge possible administratively.

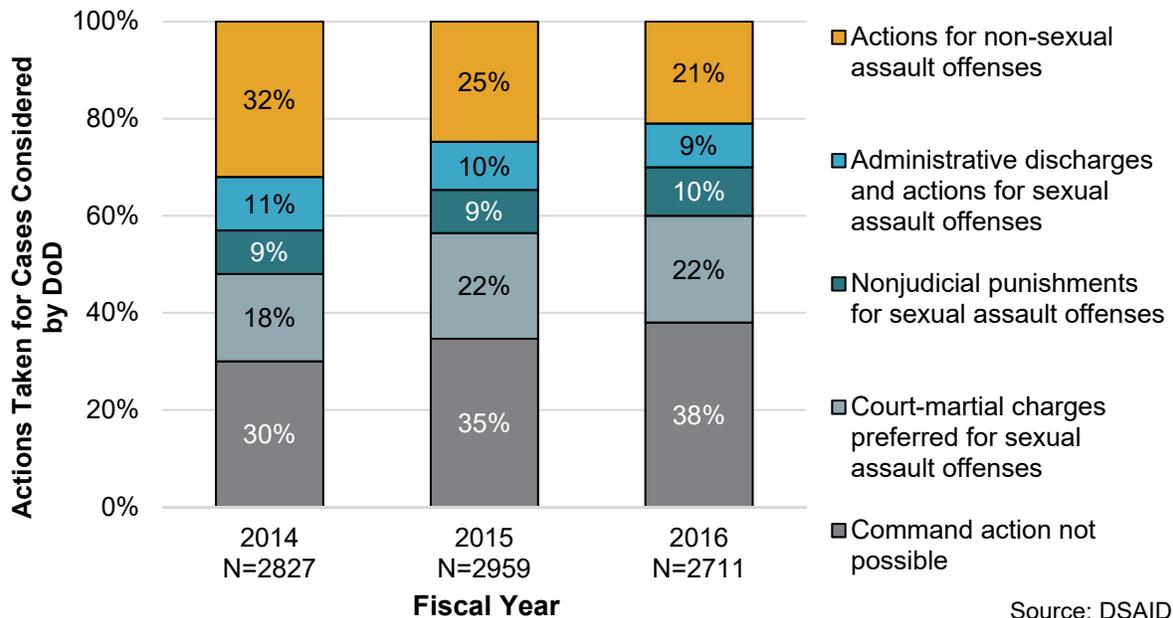


**Figure 24. Court-Martial Preferred for Sexual Assault, FY16**

**Note:** Percentages for some categories do not sum to 100 percent due to rounding. Punishments do not sum to 100 percent because cases can have multiple punishments.

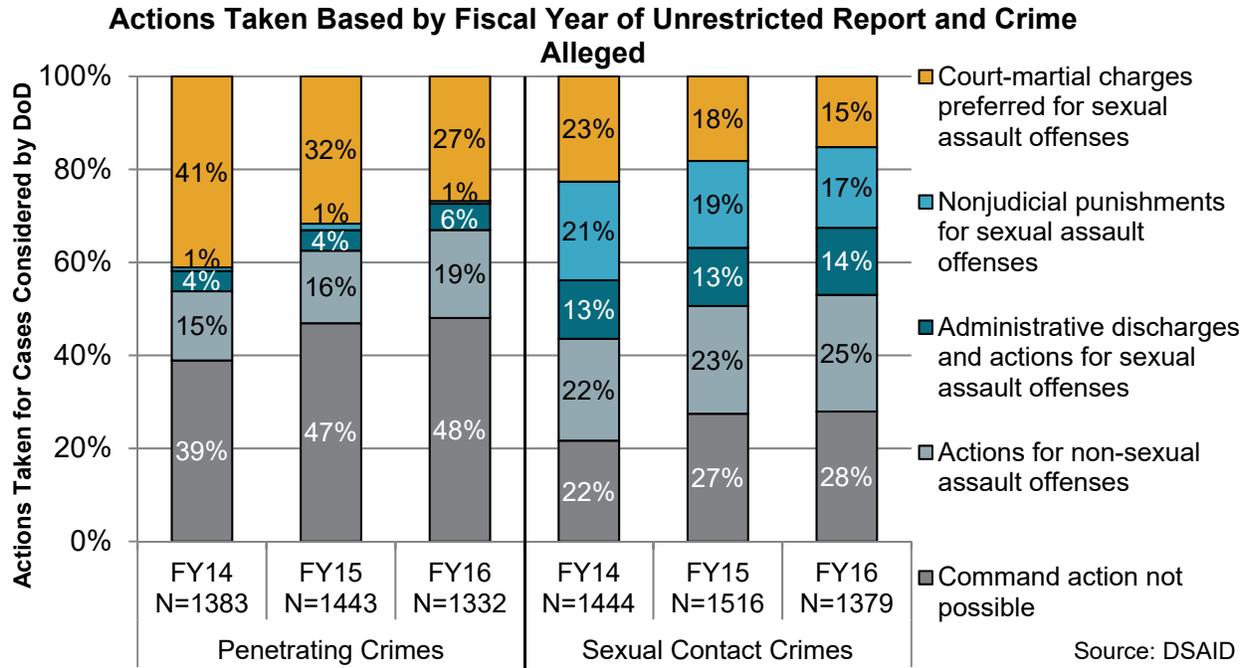
*Comparisons of Longitudinal Analyses for FY14 through FY16 Data*

Since 2014, DSAID tracks Unrestricted Reports from the date a report is made to the date the investigation and/or adjudication process has been completed. The following analyses are of judicial outcomes in Unrestricted Reports made to DoD authorities between FY14 and FY16 (Figure 25).



**Figure 25. Actions Taken in Completed Investigations of Unrestricted Reports, FY14 – FY16**

Figure 26 displays the proportions of actions taken in penetrating offense cases and sexual contact offense cases from FY14 to FY16. Commanders were able to take more action in sexual contact offense cases (72 percent in FY16) than in penetrating offense cases (52 percent in FY16) across all FYs.



**Figure 26. Actions Taken Based on Crime Alleged, FY14 – FY16**